DEPARTMENTS OF TRANSPORTATION, TREASURY, THE JUDICIARY, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2006

TUESDAY, APRIL 26, 2005

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:34 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Christopher S. Bond (chairman) presiding.

Present: Senators Bond, Murray, Byrd, and Dorgan.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

STATEMENT OF JOHN W. SNOW, SECRETARY

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Good morning. The Senate Appropriations Subcommittee on Transportation, Treasury, the Judiciary, HUD, and Related Agencies will come to order. Thus far, this new subcommittee has met to discuss the fiscal year 2006 budgets of the Departments of Transportation and Housing and Urban Development, as well as the IRS.

This morning we meet to discuss budgetary and policy matters related to the third and final Department under the subcommittee's jurisdiction, the Department of the Treasury. I'm pleased to welcome Secretary John Snow before this subcommittee and look forward to hearing your perspective on the accomplishments and challenges facing one of the Nation's oldest Cabinet Departments.

The President has set out an ambitious economic agenda for his second term, including reforming the Social Security system, overhauling the tax code, and halving the deficit. The Treasury needs to take charge of all these issues. In particular, Secretary Snow, you have a very important and high profile leadership role in promoting and explaining the administration's Social Security reform plan to the Nation.

I think we all agree that reform of Social Security is critical to the future economic well-being of our Nation. Nevertheless, while I understand your involvement with the 60 stops in 60 days tour, I'm concerned that taking a criss-crossing tour of the country while most senior level positions in the Treasury are vacant has left a void of leadership at the Department.

This may not only undermine effective management of the Department, it also diminishes the role of the Treasury in formulating policy and stewardship of economic and financial systems. Furthermore, Treasury is often left without a notable representative during interagency meetings, thereby risking losing its core responsibilities and authorities to other agencies.

The list of vacant positions reads like a social register of Federal economic policy. It includes a Deputy Secretary, two Under Secretaries, six Assistant Secretaries, and a number of other key positions. More than one-third of Treasury's main jobs are either vacant or filled by acting appointees. I am especially discouraged that in most cases, to our knowledge, no potential nominee is even in the pipeline. Someday there could be a financial crisis that requires Treasury's immediate expertise, and right now I'm not sure who would answer the call.

You've got a lot of fish to fry, Mr. Secretary, and I know you can fry those fish well. But when you're cooking that many fish, you've got to have some help. And I hope that we can do more than just cross our fingers that you won't be called on to be in three places at once without the Deputy and the Under Secretaries and Assistant Secretaries.

At its peak, the Treasury was the second largest law enforcement Department of the Federal Government. But since the Homeland Security Act, most of Treasury's law enforcement bureaus and capabilities have been transferred. Now, as Treasury reestablishes its enforcement capabilities and reasserts its proper role as the leader of government's efforts to fight terrorist financing, I'm troubled by the implementation of the statute establishing the Office of Terrorism and Financial Intelligence, or TFI, and the realignment of resources from Office of Foreign Assets Control to TFI, and more specifically, to the Office of Intelligence and Analysis, OIA, within TFI.

The principal reason Congress established TFI is to assure aggressive policy formulation, planning, and coordination over the Treasury's efforts to thwart terrorist financing, and enforcement of money laundering and other financial crimes. It appears that the office is becoming instead an operational unit at Treasury that replicates the capabilities of the Financial Crimes Enforcement Network Bureau, or FinCEN, and OFAC.

The decision to transfer 23 analysts from OFAC's foreign terrorist division to OIA, which will assume responsibility for that function, is evidence of the desire to form TFI into an operational unit. I think that's a questionable move. It's wasteful to reproduce capabilities that already exist, and it perhaps weakens the enforcement of the Nation's economic sanctions program and the Bank Secrecy Act, the very foundation of Treasury's efforts to counter terrorism financing.

More important, the Congress established the Office of Intelligence and Analysis at Treasury to empower the Department to be the leader of the Federal Government's effort in combating terrorist financing. At a time when Treasury needs to take bold actions, Treasury instead has not yet submitted a nominee to lead the office and has staffed the office with detailees, has failed to build a unique, organic intelligence capability, and has been mired in internal resource realignments. I don't believe that's acceptable.

Another major area of concern for me is information security. It was really disturbing to read a recent report issued by the GAO that found that the lack of major security controls jeopardized the taxpayer and law enforcement data collected and processed by two Treasury bureaus: IRS and FinCEN. GAO's April 15 report, titled "Information Security: Internal Revenue Service Needs to Remedy Serious Weaknesses Over Taxpayer and Bank Secrecy Act Data," found that sensitive taxpayer and law enforcement data is at risk of unauthorized use, possibly without detection.

While IRS has made some progress in correcting 32 of 53 previously reported information security weaknesses, GAO identified 30 new weaknesses. To me, it sounds like while locks were being installed on the front door, the windows and the back door were left open. And with some 7,400 possible users with access to the data, I believe the risk is extremely high and is potentially disastrous.

With the recent media stories on identify theft and breaches of personal information by private data collection agencies, the Department must make information security a priority immediately. I urge you, Mr. Secretary, to personally oversee this area because of the extreme consequences of the problem. Our ability to collect taxes and fight terrorism and crime are jeopardized by the lack of security controls.

What bothers me most is that IRS and FinCEN data may already have been compromised, and are being used or plan to be used for criminal use, and we may not even know the information has been misappropriated. I hope it's not too late and you can provide me and the committee your personal commitment that you will resolve this issue quickly.

Last year, this committee added $5 million for FinCEN to develop the first phase of its BSA Direct project, an IT system that will enable FinCEN to become the repository for Bank Secrecy Act data. Considering the risk of unauthorized disclosure, modification, or destruction of the data stored at the Detroit Computing Center, as noted by GAO and years of audit work by TIGTA, I hope you'll give us your commitment to this project and we'll charge FinCEN rather than the IRS with collecting and storing Bank Secrecy Act data. This would streamline administration of the Bank Secrecy Act at FinCEN, thereby making one bureau at Treasury clearly responsible and accountable to you for enforcement of the Act.

Mr. Secretary, let me also raise concerns with the 2006 budget request. The administration is proposing to eliminate the Community Development Financial Institutions program, CDFI, and the Bank Enterprise Act, which were funded at $31.4 million and $11.4 million respectively in 2005. These programs, in my view, in my experience in other committees, have been very important in expanding the availability of financial services in rural and urban areas that are underserved by financial institutions.

Instead, the administration is proposing that both programs be eligible for funding through the Strengthening America's Communities initiative, an administration-proposed block grant program that is designed to be administered by the Commerce Department. Both programs work very well, but more importantly, it's hard to envision any State or community awarding scarce block grant funds to financial institutions, no matter how well they serve financially underserved areas.

As I've stated in other hearings, I just do not believe that that transfer of these important programs to the new block grant makes any sense.

Another bad idea is the budget request to establish new user fees of $28 million at the Alcohol and Tobacco Tax and Trade Bureau. I appreciate that, unlike other areas of the budget request, these proposed user fees do not dig funding holes for the subcommittee, and that the budget includes funding to cover any shortfall in the revenue from these fees. I am imposed—I am opposed nevertheless to the proposed fees, because they disproportionately impact small businesses, especially those involved in the legal distribution of alcohol and tobacco products.

Congress just suspended collection of the special occupational tax for alcohol and tobacco because of its burden on small businesses. And I believe it would be ill-advised and ill-timed to levy another tax through this user fee proposal on the same small businesses. I understand that these user fees have been proposed previously, but have been killed within the administration. I think that was a good idea, and I would not be at all surprised if these user fees meet the same fate in Congress this year.

Finally, I have concerns about the IRS Business Systems Modernization (BSM) program, which I discussed previously with the IRS Commissioner. Replacement of antiquated computer systems to perform basic tax administration is critical for improving the level of service that taxpayers justifiably expect, and for closing the tax gap.

Sadly, virtually every procurement activity in BSM is behind schedule, over budget, and when the contractor provides software and hardware to the IRS, it does not meet the performance requirements. After spending nearly $2 billion, the IRS will be able to process the most basic 1040–EZ returns during this tax filing season. There are few calculations on the 1040–EZ form, and the IRS and the contractor are a long way from being able to process complex returns and schedules filed by most Americans.

I am curious to hear your views, Mr. Secretary, as someone who's had a career in the private sector, on whether the IRS and American taxpayers have received our money's worth on BSM.

In closing, as I've highlighted, there are some serious issues that need your immediate and full attention. I have the greatest faith in you personally, Mr. Secretary, with your intelligence, capability, and aggressiveness. I look forward to working with you. However, neither you nor I nor the Congress can do all this by ourselves, because of the scope and complexity of the problems.

I strongly urge you to get your senior positions filled in the Department. Otherwise, it's going to be very difficult for you to ensure accountability and oversight of the Department. Until you do so, it will be difficult at best to assure me, this committee, and the public that the Treasury is performing its responsibilities and protecting its citizens.

PREPARED STATEMENT

I thank you for your appearance and look forward to working with you on these very challenging issues. And I now turn to my ranking member, Senator Murray, for her opening statement.

[The statement follows:]

PREPARED STATEMENT OF SENATOR CHRISTOPHER S. BOND

Good morning, the Senate Appropriations Subcommittee on Transportation, Treasury, the Judiciary, HUD, and Related Agencies will come to order. Thus far this new subcommittee has met to discuss the fiscal year 2006 budgets of the Department of Transportation and the Department of Housing and Urban Development. This morning we meet to discuss budgetary and policy matters related to the third and final department under the subcommittee's jurisdiction, the Department of the Treasury. I am pleased to welcome Secretary John Snow before the subcommittee and look forward to hearing your perspective on the accomplishments and the challenges facing one of the Nation's oldest cabinet departments.

The President has set out an ambitious economic agenda for his second term, including reforming the Social Security system, overhauling the tax code, and halving the deficit. The Treasury needs to take charge of all these issues. In particular, Secretary Snow, you have a very important and high-profile leadership role in promoting and explaining the administration's Social Security reform plan to the Nation. And I think we all agree that the reform of Social Security is critical to the future economic well-being of our Nation.

Nevertheless, while I do not object to your involvement with the "60 Stops in 60 Days Tour," I am concerned that taking a crisscrossing tour of the country while most senior-level positions at the Treasury are vacant has left a void of leadership at the Department. This not only undermines effective management of the Department, it also diminishes the role of the Treasury in formulating policy and stewardship of economic and financial systems. Furthermore, Treasury is often left without a notable representative during interagency meetings, thereby risking losing its core responsibilities and authorities to other agencies. The list of vacant positions reads like a social register of Federal economic policy and includes the Deputy Secretary, two undersecretaries, six assistant secretaries, and a number of other key positions. More than one-third of Treasury's main jobs are either vacant or filled by acting appointees. I am especially discouraged that, in most cases, no potential nominee is even in the pipeline. Some day there could be a financial crisis that requires Treasury's immediate expertise, and right now, I'm not sure who would answer the call—we should do more than just cross our fingers.

At its peak, the Treasury was the second-largest law enforcement department of the Federal Government. Since the Homeland Security Act of 2002, most of Treasury's law enforcement bureaus and capabilities were transferred. Now, as Treasury reestablishes its enforcement capabilities and reasserts its proper role as the leader of government's efforts to fight terrorist financing, I am troubled by the implementation of the statute establishing the Office of Terrorism and Financial Intelligence (TFI) and by the realignment of resources from Office of Foreign Assets Control to TFI and, more specifically, to the Office of Intelligence and Analysis (OIA) within TFI.

The principle reason that Congress established TFI is to ensure aggressive policy formulation, planning, and coordination over the Treasury's efforts to thwart terrorist financing and enforcement of anti-money laundering and other financial crimes. It appears that the office is becoming instead an operational unit at Treasury that replicates the capabilities of the Financial Crimes Enforcement Network Bureau or "FinCEN" and OFAC. The decision to transfer 23 analysts from OFAC's foreign terrorist division to OIA, which will assume responsibility for that function, is evidence of the desire to form TFI into an operational unit. This is a highly questionable move. It is wasteful to reproduce capabilities that already exist, and it weakens the enforcement of the Nation's economic sanctions programs and the Bank Secrecy Act—the very foundation of Treasury's efforts to counter terrorists' financing. More importantly, the Congress established the Office of Intelligence and Analysis at Treasury to empower the Department to be the leader of the Federal Government's efforts in combating terrorist financing. At a time when Treasury needs to take bold actions, Treasury instead has not yet submitted a nominee to lead the office, has staffed the office with detailees, has failed to build a unique organic intelligence capability, and has been mired in internal resource realignments. Mr. Secretary, this is simply unacceptable.

Another major area of concern for me is information security. I was extremely disturbed to read a recent report issued by the Government Accountability Office that found that the lack of major security controls jeopardized taxpayer and law enforcement data collected and processed by two Treasury bureaus—the IRS and FinCEN. GAO's April 15, 2005 report titled "Information Security: Internal Revenue Service Needs to Remedy Serious Weaknesses over Taxpayer and Bank Secrecy Act Data" found that sensitive taxpayer and law enforcement data is at risk of unauthorized use—possibly without detection. While IRS has made some progress in correcting 32 of 53 previously reported information security weaknesses, GAO identified 39 new weaknesses. To me, it sounds like while locks were being installed on the front door, your windows and back door were open. And with some 7,400 possible users with access to these data, I believe the risk is extremely high and potentially disastrous.

With the recent media stories on identity theft and breaches of personal information by private data collection agencies, the Department must make information security a priority immediately. I strongly urge you, Mr. Secretary, to oversee personally this area because of the extreme consequences of this problem. Our ability to collect taxes and fight terrorism and crime are jeopardized by the lack of security controls. What bothers me the most is that IRS and FinCEN data may already have been compromised and are being used or planned to be used for criminal use, and you may not even know the information has been misappropriated. I hope it is not too late and you can provide me and this committee your personal commitment that you will quickly resolve this serious issue.

Last year, this committee added $5 million for FinCEN to develop the first phase of its "BSA Direct" project, an IT system that will enable FinCEN to become the repository for Bank Secrecy Act data. Considering the risk of unauthorized disclosure, modification, or destruction of the data stored at the Detroit Computing Center as noted by the GAO and years of audit work by TIGTA, I hope you will give us your commitment to this project and will charge FinCEN, rather than the IRS, with collecting and storing Bank Secrecy Act data. This would streamline administration of the Bank Secrecy Act at FinCEN, thereby making one bureau at Treasury clearly responsible and accountable to you for enforcement of that Act.

Mr. Secretary, let me also raise several concerns with the fiscal year 2006 budget request. The administration is proposing to eliminate the Community Development Financial Institutions program and the Bank Enterprise Act program which were funded at $31.4 million and $11.4 million in fiscal year 2005, respectively. These programs have been very important in expanding the availability of financial services in rural and urban areas that are underserved by financial institutions. Instead, the administration is proposing that both programs be eligible for funding through the Strengthening America's Communities initiative, an administration proposed block grant program that is designed to be administered by the Department of Commerce. Both programs work very well, but, more importantly, it is hard to envision any State or community awarding scarce block grant funds to financial institutions, no matter how well they serve financially underserved areas.

Another bad idea in the budget request is the proposal to establish new user fees at the Alcohol and Tobacco Tax and Trade Bureau. I appreciate that, unlike other areas of the budget request, these proposed user fees do not dig funding holes for the subcommittee and that the budget includes funding to cover any shortfall in revenue from these fees. I am opposed, nevertheless, to the proposed user fees because they disproportionately impact small businesses, especially those involved in the legal distribution of alcohol and tobacco products. Congress just suspended collection of the Special Occupational Tax for alcohol and tobacco because of its burden on small businesses, and I believe it would be ill-advised and ill-timed to levy another tax through this user fee proposal on the same small businesses.

I understand that these user fees been proposed previously, but have been killed within the administration. I would not be at all surprised if these user fees met the same fate in Congress this year.

Finally, I raise concerns with the IRS's Business Systems Modernization program, which I discussed in great detail with the IRS Commissioner earlier this year. Replacement of the antiquated computer systems to perform basic tax administration is critical for improving the level of service that taxpayers justifiably expect and for closing the tax gap. Sadly, virtually every procurement activity in BSM is behind schedule, over budget, and when the contractor provides software and hardware to the IRS, it does not meet the performance requirements. After spending nearly $2 billion, the IRS will be able to process the most basic 1040 EZ returns during this tax filing season. There are few calculations on the 1040 EZ form and the IRS and the contractor are is long way from being able to process the complex returns and schedules filed my most Americans.

Mr. Secretary, I am curious to hear your views, as Secretary and as someone who had a career in the private sector, on whether the IRS and American taxpayer has gotten its money's worth on BSM.

In closing, as I have highlighted, there are some serious issues that need your immediate and full attention. I have faith in you personally, Mr. Secretary. You are smart, capable and aggressive. I also look forward to working with you. However, neither you nor I nor the Congress can do all this by ourselves. Because of the scope and complexity of these problems, I strongly urge you to get your Department's senior positions filled. Otherwise, it will be difficult, if not impossible, for you to ensure accountability and oversight of the Department. Until you do so, it will be difficult at best to assure me, this committee, and the public that the Treasury is performing its responsibilities in protecting its citizens.

Thank you. I look forward to working with you on these very challenging issues and I now turn to my ranking member, Senator Murray, for her opening statement.

STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you very much, Mr. Chairman. Secretary Snow, welcome back to the subcommittee.

Secretary SNOW. Thank you.

Senator MURRAY. Since your last appearance, we've expanded our jurisdiction just a bit on this subcommittee. But I want you to know that your Department does remain a priority and an area of deep concern.

I know you have been traveling around the country trying to drum up support for the President's effort to privatize Social Security, and, to me, breaking the promise of Social Security and putting millions of Americans at risk is wrong. I know that you and I are not going to reach agreement on that today. But I think we can both agree that this national conversation has shown many Americans just how important Social Security is.

Today, more Americans understand how important Social Security's guaranteed benefit is. More Americans know that Social Security helps not just the retired, but provides critical income for the disabled, for widows, and surviving children. And I think more Americans appreciate the stability and certainty of their Social Security checks as we've seen the stock market rise and fall like a roller coaster lately.

While I know we will have a chance to talk about Social Security and issues like the health of our economy and the strength of the dollar, I want to make sure that this subcommittee attends to its central responsibility, reviewing the President's budget for your Department and reviewing how your Department has spent the money Congress has appropriated.

So today I want to discuss what's in this budget, including the new initiatives the Secretary wants to launch, and I also want to talk about what's not in this budget, the things the Secretary wants to terminate and the user fees the administration wants to impose on American families and small businesses. I especially want to discuss the Department's continuing problems in managing major procurements.

While it comes to addressing the agency's physical and IT infrastructure, it's clear that Treasury needs to do a better job in how it spends the dollars it collects from taxpayers.

Let me start with what is in this budget request. The administration is requesting a boost of more than $446 million for tax law enforcement activities. However, this boost will not signal a new historic high in IRS enforcement activities, far from it. As the IRS Commissioner told this subcommittee recently, the agency's enforcement efforts have been allowed to wane in the last few years. I'm encouraged that the agency now wants to reverse that trend, and since the IRS fails to collect between $250 billion and $330 billion each year from tax cheats, I would say that this reversal could not happen soon enough.

While the agency is finally addressing something it's allowed to languish for years, the way it's addressing it does trouble me. The administration wants to pay for more enforcement by cutting direct service to taxpayers. The President's budget would cut services that are essential in helping citizens comply with our tax laws.

For example, your budget proposal would: close as many as one out of every four taxpayer assistance centers across the country; eliminate phone tax filing, which is used by more than 5 million individuals and businesses each year; shorten the number of phone hours that IRS personnel are available to answer taxpayers' questions; discontinue tax law assistance through the Internet; and cut outreach efforts to high-risk taxpayer groups.

I don't believe these cuts are merited if they will only heighten confusion and hassle for taxpayers, and perhaps even make the compliance problem worse.

Unfortunately, funding for these basic taxpayer service functions is not the only thing missing from this budget. I am very concerned about the Secretary's proposals to eliminate funding for many essential functions in the Alcohol and Tobacco Tax and Trade Bureau. Instead of continuing to provide appropriated funding, the Secretary would impose new taxes on industry to pay for these functions.

Let me give you one example of great importance to families in my home State. Over the past few years, the people in Washington State have built a world-renowned wine industry through hard work, research, and creativity. These vineyards are providing jobs for communities that have struggled. They're bringing tourists to many parts of my state and they're helping our economy.

Over the past decade, wine has become a $2.4 billion industry in my State. Production has doubled, and now wine grapes are the State's fourth-largest fruit crop. Today there are more than 300 wineries in my State, nearly double the number in 2000, and Washington's wine industry supports more than 11,000 related jobs. Mr. Chairman, I'd love to have you come and visit sometime.

Senator BOND. If you want to visit the Missouri wineries, we'll make a——

Senator MURRAY. Deal.

Road trip. Many of our wine producers are small, family-run vineyards, and they should be encouraged and supported for the progress they've built with their own hands. Instead, this administration wants to hit them with more taxes in the form of new user fees.

Mr. Secretary, I can tell you that your proposal to fund the Alcohol and Tobacco Tax and Trade Bureau with user fees is going to impose a tremendous hardship on our small family-owned vineyards. Forcing vineyards to pay a fee just to get their labels approved will hurt new entrants into this promising market. We should be encouraging their success instead of putting more barriers to their viability. This proposal is especially puzzling coming from an administration that claims to encourage entrepreneurship and reduced tax burdens.

Finally, Mr. Secretary, I want to raise my concerns regarding the Treasury Department's deeply troubled record in handling major procurements, especially IT services. We receive a continuing stream of reports from the GAO and the Inspector General regarding projects that are way behind schedule, cost more than they should, or are not adequately secure.

The Treasury Department has finally established its new human resource information system known as HR Connect. That system cost taxpayers $173 million. A similar system at the Coast Guard cost one-seventh of that amount. A similar system at the Agricultural Department cost less than one-tenth that amount.

The Department's renovation activities are also a concern. The initiative to repair and restore the Treasury building and its Annex have been badly mismanaged. The cost so far will soon top a quarter of a billion dollars, but for all that money, work on the Treasury building is still not complete, and the Treasury Annex has not yet been touched.

Other examples of Treasury's poor management of major projects abound. Just last week, we read in the paper about an employee tuition assistance program at the IRS. More than 60 percent of the funding has gone to overhead, and less than 40 percent went to actual tuition assistance. Treasury's efforts to procure a new secure communications system was recently slowed down because the agency failed to grant all the bidders access to relevant information. As a result, the GAO sustained a bid protest.

And speaking of the GAO, that agency informed us that despite the progress the IRS has made in correcting information security weaknesses, more than half of the deficiencies identified 3 years ago are not fixed. Let me say that again. It's been 3 years and half the improvements still have not been made.

And these are not minor issues. Some of the vulnerabilities that still exist include the opportunity for any employee at the IRS and elsewhere in the Treasury to have easy, unauthorized access to sensitive information, including filings under the Bank Secrecy Act. In terms of the largest amount of taxpayer dollars lost, we could hold several days of hearings on the Business Systems Modernization program at the IRS. It might take that long to compare what has been delivered under that program compared to what was originally promised.

Mr. Secretary, I recognize that you personally cannot stay on top of each and every one of these programs. But when I look at these persistent management problems at your agency, when I look at the tax dollars being wasted, when I look at the rapid turnover and high number of vacancies at your agency, I have to worry whether there's anyone at home minding the store.

PREPARED STATEMENT

I know we both agree taxpayers deserve better. I hope as we discuss some of these problems this morning you will be frank with us on how we can help you get some of these troubled programs under control.

Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PATTY MURRAY

Secretary Snow, I want to welcome you back to this subcommittee. Since your last appearance, we've expanded our jurisdiction a bit, but I want you to know that your Department remains a priority for us and an area of deep concern.

THE PRESIDENT'S SOCIAL SECURITY PROPOSAL

I know that you've been traveling around the country trying to drum up support for the President's proposal to privatize Social Security. To me, breaking the promise of Social Security and putting millions of Americans at risk is wrong. I know that you and I aren't going to reach an agreement on that today.

But I think we can both agree that this national conversation has shown many Americans just how important Social Security is. Today, more Americans understand how important Social Security's guaranteed benefit is. More Americans know that Social Security helps—not just the retired—but also provides critical income for the disabled, for widows and for surviving children. And I think more Americans appreciate the stability and certainty of their Social Security checks as we've seen the stock market rise and fall like a roller coaster lately.

While I know we'll have a chance to talk about Social Security and issues like the health of our economy and the strength of the dollar, I want to make sure this subcommittee attends to its central responsibility—reviewing the President's budget for your department and reviewing how your department has spent the money Congress has appropriated.

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I especially want to discuss the Department's continuing problems in managing major procurements. When it comes to addressing the agency's physical and IT infrastructure, it's clear that Treasury needs to do a better job in how it spends the dollars it collects from taxpayers.

BOOSTING TAX LAW ENFORCEMENT

Let me start with what is in this budget request. The administration is requesting a boost of more than $446 million for tax law enforcement activities. However, this boost will not signal a new historic high in IRS enforcement activities—far from it. As the IRS Commissioner told this committee recently, the agency's enforcement efforts have been allowed to wane in the last few years. I'm encouraged that the agency now wants to reverse that trend. And since the IRS fails to collect between $250 billion to $330 billion each year from tax cheats, I would say that this reversal couldn't happen soon enough.

CUTTING SERVICES TO TAXPAYERS

While the agency is finally addressing something it's allowed to languish for years, the way it's addressing it troubles me. The administration wants to pay for more enforcement by cutting direct services to taxpayers. The President's budget would cut services that are essential in helping citizens comply with the tax laws. For example, your budget proposal would close as many as one out of every four Taxpayer Assistance Centers across the country; eliminate phone tax filing, which is used by more than 5 million individuals and businesses each year; shorten the number of phone hours that IRS personnel are available to answer taxpayers' questions; discontinue tax law assistance through the internet; and cut outreach efforts to high-risk taxpayer groups. I don't believe that these cuts are merited if they will only heighten confusion and hassle for taxpayers and, perhaps, even make the compliance problem worse.

IMPOSING NEW FEES ON WASHINGTON'S WINE INDUSTRY

Unfortunately, funding for these basic taxpayer service functions is not the only thing missing from this budget. I am very concerned about the Secretary's proposals to eliminate funding for many essential functions in the Alcohol and Tobacco Tax and Trade Bureau. Instead of continuing to provide appropriated funding, the Secretary would impose new taxes on industry to pay for these functions.

Let me give you one example of great importance to families in my State. Over the past few years, the people in Washington State have built a world-renowned wine industry through hard work, research, and creativity. These vineyards are providing jobs for communities that have struggled. They're bringing tourists to many parts of our State, and they are helping our economy.

Over the past decade, wine has become a $2.4 billion industry to my State. Production has doubled, and now wine grapes are the State's 4th largest fruit crop. Today there are more than 300 wineries throughout the State—nearly double the number in 2000. And Washington's wine industry supports more than 11,000 related jobs.

Many of our wine producers are small, family-run vineyards. They should be encouraged and supported for the progress they've built with their own hands. Instead, this administration wants to hit them with more taxes in the form of new user fees. Mr. Secretary, I can tell you that your proposal to fund the alcohol tax bureau with "user fees" is going to impose a hardship our small family-owned vineyards. Forcing vineyards to pay a fee just to get their labels approved will hurt new entrants into this promising market. We should be encouraging their success instead of putting up more barriers to their viability. This proposal is especially puzzling coming from an administration that claims to encourage entrepreneurship and reduced tax burdens.

MAJOR PROCUREMENT PROBLEMS

Finally, Mr. Secretary, I want to raise my concerns regarding the Treasury Department's deeply troubled record in handling major procurements, especially IT services. We receive a continuing stream of reports from the GAO and the Inspector General regarding projects that are way behind schedule, that cost more than they should, or that are not adequately secure.

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The Department's renovation activities are also a concern. The initiative to repair and restore the Treasury Building and its Annex has been badly mismanaged. The cost so far will soon top $250 million. But for all that money work on the Treasury Building is still not complete, and the Treasury Annex has not yet been touched.

Other examples of Treasury's poor management of major projects abound. Just last week, we read in the paper about an employee tuition assistance program at the IRS. More than 60 percent of the funding has gone to overhead, and less than 40 percent went to actual tuition assistance.

Treasury's efforts to procure a new secure communications system was recently slowed down because the agency failed to grant all the bidders access to the relevant information. As a result, the GAO sustained a bid protest.

And, speaking of the GAO, that agency informed us that, despite the progress the IRS has made in correcting information security weaknesses, more than half of the deficiencies identified 3 years ago are still not fixed. It's been 3 years, and half the improvements still haven't been made. And these aren't minor issues. Some of the vulnerabilities that still exist include the opportunity for any employee at the IRS and elsewhere in Treasury to have easy, unauthorized access to sensitive information including filings under the Bank Secrecy Act.

In terms of the largest amount of taxpayer dollars lost, we could hold several days of hearings on the Business Systems Modernization program at the IRS. It might take that long to compare what has been delivered under that program compared to what was originally promised.

Mr. Secretary, I recognize that you personally cannot stay on top of each and every one of these programs. But when I look at these persistent management problems at your agency, when I look at taxpayer dollars being wasted, when I look at the rapid turnover and high number of vacancies at your agency, I have to worry whether there is anyone at home minding the store.

I know that we both agree that taxpayers deserve better. I hope that as we discuss some of these problems this morning you will be frank with us on how we can help you get some of these troubled programs under control.

Thank you, Mr. Chairman.

Senator BOND. Thank you very much, Senator Murray. Senator Byrd.

Senator BYRD. Mr. Chairman, I hope you're recuperating well.

Senator BOND. Just mean.

Senator BYRD. Mean? Why, you've been that way all the time.

You just broke your shoulder, you just hurt your shoulder a few days ago.

Senator BOND. That just gives me an excuse.

Senator BYRD. Does your wife accept that?

Senator BOND. I have—there is a mad orthopedic surgeon who did me in.

Senator BYRD. Okay. Well, now, are you calling on me for an opening statement or for questions?

Senator BOND. We would like to be enlightened by your opening statement. We have not heard the Secretary's initial statement.

Senator BYRD. Yes. Well, I don't believe I'll make an opening statement. I hope I can get out before 10:30 or 10:45 for another appointment. I do have some questions.

Senator BOND. Well, we will have 5-minute questions, and as always, we ask the Secretary to submit his full statement for the record and to give us the highlights that he thinks are most important, and then we'll go on the rapid-fire question.

Senator BYRD. May I then retract my statement that I don't want to make an opening statement? I'll be very brief.

Senator BOND. All right, sir.

STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. Mr. Secretary, good morning to you.

Secretary SNOW. Good morning, Senator.

Senator BYRD. You're one of my favorite Cabinet members.

Secretary SNOW. Thank you.

Senator BYRD. I submitted a number of questions for the record when you testified before the Senate Budget Committee last February. I received your responses yesterday. I was alarmed by the vague answers you provided to some very straightforward questions.

You have been traveling around the country, as has the President, touting a plan to change Social Security. But here we are nearing the midpoint in the congressional calendar. The Finance Committee is holding hearings today and reportedly is preparing to draft legislation soon. The public still does not know how much the President's plan will cost or how it will affect their benefits.

Now, as a child of that generation that's been talked about a good bit recently, I can remember when the old people down in Raleigh County, West Virginia, didn't have anything to help them when they became too old to work. The only place they had left to go was over the hill to the poorhouse. They could stand at the gates of their children's homes with their hats in their hands and beg to be taken in, but, oftentimes, the children were not able to help them.

I can remember when the Social Security check was referred to as the old-age pension check. It came to my wonderful mom and dad, who are in heaven today. These old people raised me. They were not my biological father and mother, but they raised me. They were honest; they were religious. They didn't wear their religion on their sleeves; they didn't make a big hoopty-doo about it. But they were truly, truly religious.

I can remember the first Social Security checks they got. My, what a beacon of hope those Social Security checks were. And so, I have a deep-rooted respect and gratification for Social Security. I'm very concerned about Social Security.

I won't ask any questions right now, but I thank you for your appearance. I always have had a tremendous respect for you, and I like you personally. I will have a few questions for you later. Thank you, Mr. Chairman. Thank you, Mrs. Murray.

Senator BOND. Thank you very much, Senator Byrd. I believe you have had some dealings with West Virginia in your prior occupation, and obviously they were very satisfactory, and we've all appreciated those.

Mr. Secretary.

STATEMENT OF SECRETARY JOHN W. SNOW

Secretary SNOW. Thank you very much, Mr. Chairman, Senator Murray, Senator Byrd. Yes, I've had many dealings with West Virginia and the esteemed senior Senator over a long, long time, and I admire him deeply.

Thank you for the chance to come up today and talk about the Treasury 2006 budget request. We're still hoping to get the 2005 reprogramming approval as well. And you asked me what might be helpful in the Department moving forward with some of these initiatives. That's one thing, Mr. Chairman, that would be helpful.

Because of the homeland security issues that arose after 9/11, the Treasury Department is a very different place today than the place it was at the beginning of this administration. A large number, as you know, of law enforcement functions, have been taken from the Department and located elsewhere, primarily in the Department of Homeland Security, but some in the Justice Department. And the restructuring of the Department probably represents the largest governmental restructuring of any agency in modern times, as we lost some 35,000 people who went off to other agencies.

As a result, the Department is a very different place today. Its mission is in some ways more coherent. We're focused primarily on economic matters and finance matters, economic policy, advice to the President on economic issues is a primary function. Another function is collecting the revenues, as you know, and that's the single biggest part of the Department in terms of people, about 100,000 out of the 110,000 or 115,000 people are in the tax collection, tax administration, tax enforcement set of activities.

The Department is also responsible for collecting the bills and being the paymaster for the country, and managing the finances, issuing the debt, and managing the overall financial condition of the country.

In terms of economic policy, the issue we're most directly involved in now, as has been said, is Social Security. I know we'll have a good discussion on that as we proceed. The President's objective there, I think, is simply to have this dialogue with the country, to lay out the issues, and engender a better understanding of what's at stake here.

And what's at stake is awfully important. I agree with Senator Byrd. This is a system that millions of Americans depend on. I think some 45 million Americans receive Social Security checks today, of which—and this is the important point—a very high percent depend on that for their entire subsistence. This is a noble initiative of the American government. It's one of the most important programs that government ever undertook. It's served our Nation well for seven decades, and we need to take steps to make sure it serves us well going forward. So preserving and protecting Social Security has to be the major focus of that initiative, and putting it on a sustainable course.

We're also engaged in efforts to rethink the code and make sure that the Internal Revenue system is administered well, is simpler, is less complex, less burdensome, and is fair and encourages good behavior on the part of businesses and taxpayers so the economy continues to grow. You know the President appointed a panel co-chaired by two of your former colleagues, former Senator Connie Mack of Florida and former Senator John Breaux, with a number of other very highly thought of and distinguished people.

We've asked the panel to report back to us by the end of July. I'm in continuous contact with the co-chairs, and they're making a lot of good progress. And I look forward to getting their report at the end of July and then working with them and sending forward recommendations to the President, which I hope will lead to legislative proposals later this year coming up to the Congress.

We're also focused on the deficits. The deficits are too large. The debt levels and the deficits are too large. We need to continue to find ways to rein them in and to pursue fiscally responsible policies. That's an issue I know is very much on the minds of the committee as you oversee our activities.

PREPARED STATEMENT

You have mentioned the vacancies. We can talk about that. There are too many vacancies at the Department today, I acknowledge that. I also acknowledge the need to do better in this information technology arena, both at FinCEN and at the IRS. And I look forward to working with the committee as we continue to focus on how to make sure that the Department carries on its activities in ways that follow your directions and well serve the taxpayers of America.

And with that, I thank you.

[The statement follows:]

PREPARED STATEMENT OF SECRETARY JOHN W. SNOW

Chairman Bond, Senator Murray, and members of the subcommittee, I appreciate the opportunity to appear before you today to discuss the President's fiscal year 2006 budget for the Department of the Treasury.

The Department's budget reflects the President's top priorities for fiscal year 2006: fighting the financial war on terror while ensuring America's economic strength, and demonstrating the fiscal responsibility necessary to reduce the deficit. The fiscal year 2006 request of $11.6 billion also supports Treasury's longer term core strategic missions: promoting national prosperity through economic growth and job creation; maintaining public trust and confidence in our economic and financial systems; and ensuring the Treasury organization has the workforce, technology, and business practices to meet the Nation's needs effectively and efficiently. This budget request focuses on the President's belief that the budget be fair while holding the government accountable. It adheres to the principle that "taxpayer dollars must be spent wisely, or not at all."

Mr. Chairman, we provided the committee with a detailed breakdown and justification for President's fiscal year 2006 budget request for Treasury. I would like to take the opportunity today to point out some highlights of our request and then I'd be happy to take any questions you may have.

STRENGTHEN NATIONAL SECURITY

Treasury's budget reinforces the President's commitment to combating terrorist financing and safeguarding the U.S. financial system. Since September 11, we have leveraged the relationships, resources, and expertise that we have acquired over the past several years in combating money laundering to address terrorist financing and protecting our financial systems. Our efforts in both attacking terrorist financing and protecting the financial system are complementary and are effecting the changes required to protect the integrity of our financial systems by identifying, disrupting and dismantling sources, flows, and uses of tainted capital within those systems. To support these efforts, the President requests $351.3 million for fiscal year 2006.

The Office of Terrorism and Financial Intelligence (TFI) leads Treasury's efforts to sever the lines of financial support to international terrorists and serves as a critical component of the administration's overall effort to keep America safe from terrorist plots. The establishment of TFI unifies leadership for the functions of the Office of Intelligence Analysis (OIA), the Office of Terrorist Financing and Financial Crimes (TFFC), the Financial Crimes Enforcement Network (FinCEN), the Office of Foreign Assets Control (OFAC), and the Treasury Executive Office for Asset Forfeiture (TEOAF). The objectives of unifying this leadership are better coordination of Treasury's array of economic tools against terrorist and national security threats. To safeguard financial systems both at home and abroad, TFI draws upon a range of capabilities that cut across various categories, including financial sanctions, financial regulation and supervision, international initiatives, private sector outreach, and law enforcement support. TFI consolidates the policy, enforcement, regulatory, international, and analytical functions of the Treasury and adds to them critical intelligence components. OIA provides focused and operable intelligence in support of the Department's mission and policies. TFI's enforcement responsibilities are executed by the TFFC, OFAC, and FinCEN. Finally, TFI provides policy guidance for the IRS-Criminal Investigation Division (IRS–CI) in their anti-money laundering, terrorist financing, and financial crimes cases.

Since September 2001, the United States and its allies have designated 399 terrorist related entities and frozen over $147 million in terrorist assets. TFI has designated and frozen the assets of prominent terrorist financiers and organizations, including Adel Batterjee, a Saudi financier of al Qaida, and the Islamic African Relief Agency, a corrupt global charity that supported Usama bin Laden and HAMAS. Thanks to collaborative efforts by TFI and other agencies, the United States has facilitated the finding and freezing of nearly $6 billion in Iraqi assets outside of Iraq, the return of over $2.7 billion of those funds, and the recovery of more than $1 billion in cash inside Iraq.

Treasury's fiscal year 2006 request includes increases for resources to enhance Treasury's analytical capability so that senior officials have access to actionable financial intelligence. The request also supports TFI creating a 21st century information technology infrastructure to assist in the global fight against terror.

The Financial Crimes Enforcement Network has a major role in supporting TFI's enforcement responsibilities. The President's request includes $73.6 million for FinCEN to support its mission to safeguard the financial system from abuses of financial crime, including terrorist financing, money laundering and other illicit activity. This increase will provide FinCEN with the funding needed to enhance its outreach efforts to financial institutions newly covered by Bank Secrecy Act regulations and strengthen examination and enforcement activities; strengthen analytical support services; and expand FinCEN's support to other international financial intelligence units to facilitate information exchange.

The IRS–CI also plays a key role in investigating financial crimes. The request supports the unique skills and expertise of IRS–CI agents in investigating tax fraud and financial crimes not only to support tax compliance, but also benefit the war on terror and our efforts to root out financial crimes. These agents apply their training, skills, and expertise to support the national effort to combat terrorism and participate in the Joint Terrorism Task Force and other similar interagency efforts focused on disrupting and dismantling terrorist financing.

In addition, the Office of Critical Infrastructure Protection and Compliance Policy leads our efforts to safeguard the financial infrastructure. This Office works closely with other Federal agencies and the private sector to safeguard our infrastructure. That is essential, given that the majority of the critical financial infrastructure of the United States is owned and operated by the private sector.

Finally, an essential aspect of ensuring our national security is to secure fragile states and foster sustainable development in the world's poorest nations. The Office of International Affairs uses bilateral diplomacy and its role as steward of the international financial institutions, including the World Bank and International Monetary Fund—to create the economic growth that will reduce conflict and the conditions that favor terrorism in the developing world.

ENSURE FINANCIAL SECURITY

Treasury's strategic goal to manage the U.S. Government's finances effectively is the largest part of the President's fiscal year 2006 request for the Department. The budget request of $11 billion—the majority of which is for the Internal Revenue Service—underscores our commitment to provide quality service to taxpayers and enforce America's tax laws in a balanced manner. The request includes a 7.8 percent increase in enforcement funding over fiscal year 2005. The increase will provide additional resources to examine more tax returns, collect past due taxes and investigate cases of tax evasion.

It is important that these enforcement investments be fully funded, therefore the administration proposes to employ a budget enforcement mechanism used commonly in the 1990's for spending items that contribute to increased revenues or reductions in improper payments. Under the proposal, an adjustment for IRS enforcement would be made by the Budget Committees to the section 302(a) allocation to the Appropriations Committees found in the concurrent resolution on the budget. In addition, the administration will also seek to establish statutory spending limits, as defined by section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and to adjust them for this purpose. To ensure full funding of the program and inflationary cost increases, either of these adjustments would only be permissible if the Congress funded the base level for IRS enforcement at $6.4 billion and restricted the use of the funds. The maximum allowable adjustment to the 302(a) allocation and/or the statutory spending limit would be $446 million for fiscal year 2006, bringing the total enforcement level in the IRS to $6.9 billion. This entire amount is included in the overall discretionary spending total sought by the administration and is fully accounted for in the budget.

The proposed fiscal year 2006 budget makes a strong commitment to a sound system of tax administration. The IRS collects $2 trillion annually; however, billions continue to go uncollected every year. The increase in enforcement funding will be used to bolster audit coverage of corporations and high-income individuals who try to evade taxes as well as to expand collection and criminal investigation efforts. These investments will pay for themselves several times over.

The President's request also provides $199 million to continue efforts to modernize the tax system through investments in IRS's Business Systems Modernization (BSM). The modernization program is providing real business benefits to taxpayers and IRS employees by delivering several modernized systems. For example, the Service implemented the Integrated Financial System that replaces its administrative accounting system. BSM funding allowed IRS to fully deploy online e-Services functionality for tax practitioners and other third parties, such as banks and brokerage firms allowing improved and faster interactions for transactions such as the application for e-filing, requests for Preparer Tax Information Number and Secure Electronic Return Originator applications, among many other products. The IRS also deployed Modernized e-File, which provides e-filing for the first time to large corporations and tax-exempt organizations. Replacing the outdated legacy system, the Customer Account Data Engine, which began processing the simplest 1040 EZ returns in July of last year, is a modern database that will eventually house tax information for more than 200 million tax returns per year.

The IRS also administers a refundable tax credit for the cost of health insurance for both qualified individual and family members. The request provides $20.2 million to continue implementation and operation of the Health Insurance Tax Credit Program. The annual cost of this program is reduced by over $15 million due to IRS's active program oversight and cost-cutting initiatives.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) is responsible for the regulation of the alcohol and tobacco industries, and the collection of $14.7 billion annually in alcohol, tobacco, firearms, and ammunition excise taxes at a cost of $1 for every $368 collected. Our fiscal year 2006 request includes $91.1 million for TTB. The budget proposes to establish user fees to cover a portion of the costs of TTB's regulatory functions under its Protect the Public line-of-business.

The budget also includes a $236.2 million request for the Financial Management Service (FMS), which administers the government's payments and collections systems. In fiscal year 2004, FMS issued more than 940 million non-Defense payments, 705 million electronic payments and 235 million paper checks, FMS annually issues more than 940 million non-Defense payments valued at $1.5 trillion. The Budget provides funding for FMS's electronic initiatives, such as: Pay.gov, which is a Government-wide web portal to collect non-tax revenue electronically; Paper Check Conversion, which converts checks into electronic debits thereby moving funds more quickly; and Stored Value Cards, which directly support military operations overseas. The fiscal year 2006 request also includes legislative proposals to improve and enhance opportunities to collect delinquent debt through FMS's debt collection program.

The Bureau of the Public Debt (BPD) continues its management and improvement of Federal borrowing and debt accounting processes. The budget requests $179.9 million in direct appropriations for BPD which includes $3 million in user fees. The funding will allow BPD to continue improving the efficiency of the securities services to customers by expanding TreasuryDirect, an investment system that will enable Treasury customers to manage their investment accounts online.

The functions of the United States Mint and the Bureau of Engraving and Printing (BEP) are vital to the health of our Nation's economy. These two agencies fulfill the Treasury Department's responsibility of meeting global demand for the world's most accepted coins and currency. The United States Mint also continues to manufacture and market popular numismatic products, while BEP also continues to develop new designs of next generation currency to guard against counterfeiting.

PROMOTE ECONOMIC OPPORTUNITY

The Treasury Department works to ensure that U.S. and world economies perform at full economic potential. To reach this potential, the economy must increase its rate of growth and create new, high quality jobs for all Americans. The legal and regulatory framework must also support this growth by providing an environment where businesses and individuals can grow and prosper without the burdens and costs of unnecessary rules and regulations.

Our budget requests $1.6 billion to support these strategic goals. The request includes funds for policy offices that guide domestic economic development, tax programs, financial institutions and other fiscal matters. These policies are essential as Treasury works to simplify the U.S. tax code and create a legal and regulatory framework that allows the Nation's businesses to thrive.

Treasury's international programs and three Treasury bureaus, the Community Development Financial Institutions Fund, the Office of the Comptroller of Currency and the Office of Thrift Supervision play diverse roles in fostering economic growth and prosperity. From serving as the President's principal economic advisor to maintaining the health of the national banking and thrift system, the Treasury has a significant influence on creating the conditions for a robust economy. Through the Office of International Affairs, the Treasury also pursues diplomacy to create the conditions for global growth, which creates economic opportunity at home and overseas, by a range of actions, including the reduction of undue barriers to trade and investment and the establishment of stability in the international financial system.

Treasury's international assistance programs request of $1.5 billion for fiscal year 2006 is part of the Foreign Operations, Export Financing, and Related Program Appropriations Act. These programs include multilateral development banks (MDBs), debt reduction, and technical assistance—all critical instruments to promote the administration's international economic agenda. MDBs promote global economic growth and poverty reduction, and help create stronger markets for U.S. goods and services. Debt reduction helps poor countries move to a sustainable level of debt and remove debt overhang that inhibits growth. Our technical assistance programs help countries institute the sound budget and financial systems needed for economic growth.

MANAGE FOR RESULTS

The President requests $211.8 million to protect the integrity and effectively manage the resources of the Department of Treasury, and ensure that it remains a world class organization. Included in this request is $16.7 million to fund the Department's Office of Inspector General (OIG) and augment audit and investigative capabilities.

This portion of the budget also includes $133.3 million for the Inspector General for Tax Administration (TIGTA) and its efforts to oversee the Nation's tax administration. TIGTA continues to play a significant role in providing independent oversight, which promotes efficiency and integrity in the IRS's ability to collect $2 trillion annually. TIGTA aggressively combats any identified attempts to disrupt and/or interfere with tax administration. The Nation's voluntary tax compliance system is supported and protected by TIGTA agents who participate in the Joint Terrorism Task Force and proactively seek to identify individuals or groups who pose a threat to effective tax administration. Critical information is shared with the IRS and allows the leaders of the IRS to make effective business decisions, which promote efficient tax administration and support IRS employee safety.

The proposed budget request includes $7.9 million in new funding to provide for an improved technology infrastructure, essential for keeping pace with the Department's needs to enhance productivity, improve communication, interact effectively with the world-wide financial community, and meet other management needs. Funding will be used to improve the Department's information technology infrastructure to ensure the effectiveness of the Department in managing Federal finances and combating financial crimes and terrorist financing. The request also ensures that the Department will continue its major facilities projects and services for the Main Treasury and Treasury Annex buildings to ensure the safety and health of occupants and perform structural repairs and improvements. Additional funds will allow Treasury to complete the project during fiscal year 2006 and reoccupy the restored office space.

THE PRESIDENT'S MANAGEMENT AGENDA

Treasury has focused its management initiatives around the goals of the President's Management Agenda (PMA). Under guidance from the PMA, the Treasury has grasped tangible results in managing the Nation's finances, taking advantage of new opportunities and opposing threats. The Department is committed to defining desired results for each area and managing to achieve them, at acceptable cost levels.

In fiscal year 2004, Treasury achieved significant milestones in implementing the President's Management Agenda, improving three of our five status scores for the PMA over the prior year.

Treasury managed for results as we implemented a new performance appraisal system for our Senior Executive Service that links managers' performance assessments to accomplishing the Department's top priorities. We are also focusing on recruiting and retaining a world-class workforce, and have started implementing a new Human Capital Strategic Plan. This plan is the Department's roadmap for molding a workforce of engaged, highly competent, and business-aligned employees.

The Department is making good progress on using competition to improve efficiency. This past year, we completed five public-private competitions, and as a result, expect savings of $200 million over the next 5 years. Our efficiency initiatives have received national recognition, winning the President's Quality Award for Management Innovation at the IRS for our Area Distribution Center competition.

Treasury continues to be a leader in making financial information available in a timely manner through a 3-day close of its books at the end of each month, and for the fifth consecutive year we received a clean audit opinion. The Department continues to work at securing our information systems. Our systems are more secure now than at any other time, with 86 percent certified and accredited as secure at the end of 2004.

CONCLUSION

Mr. Chairman, I look forward to working with you, members of the committee, and your staff to maximize Treasury's resources in the best interest of the American people and our country as we move into fiscal year 2006. We have hard work ahead of us and I am hopeful that together we can work to make the Treasury a model for management and service to the American people, and continue to generate economic growth, increase the number of jobs for our citizens, and keep our financial systems strong and secure.

Thank you again for the opportunity to present the Treasury Department's budget today. I would be pleased to answer your questions.

TREASURY DEPARTMENT VACANCIES

Senator BOND. Thank you very much, Mr. Secretary. We're talking about unfilled vacancies. The—I'm particularly troubled at key management positions, Deputy Secretary, Assistant Secretary for Management, Chief Financial Officer remain unfilled.

How do you hold a staff accountable, how can you operate it when key people that should be in your organization are not there? What are the plans to get these positions filled?

Secretary SNOW. Well, Mr. Chairman, the work of the Department is getting done, but it sure would be desirable and helpful to have those vacancies filled. Several of those vacancies are standing in the nomination process awaiting hearings. More are awaiting clearance through the White House process. And I'm in continuous touch with the White House Personnel Office and Office of the Chief Counsel——

Senator BOND. Please give them our best wishes, would you?

Secretary SNOW [continuing]. And urging them to move this process along. But in terms of the work of the Department, though, while it would greatly help us to have these people in place, the Department has a terrific group of hardworking civil servants and a good work of political people, small but able, and the work is getting done. It's a lot of overtime though for us these days.

Senator BOND. But, Mr. Secretary, I mentioned the GAO reports that security weaknesses place sensitive taxpayer and Bank Secrecy Act information at risk, and TIGTA has also identified numerous problems with IRS information security. You, under the Federal Information and Security Management Act, are responsible for providing information security, and are you alarmed by the GAO's findings? And how and when are you going to resolve these problems?

Secretary SNOW. Senator, this is a serious issue and we take it seriously. We are committed to the information security of the systems we have at the Department, and pledge to you this will be a priority.

I talked to the Acting Deputy Secretary this morning about it and the Chief of Staff, and we're all going to make every effort to close the gap. We know there's a gap here. We're also going to work closely with the Department's Inspector General, Harry Damelin, a position that was recently filled, I'm delighted to say, and with Russell George of TIGTA, the Inspector General for the IRS, both of whom are aware of these issues and will be very helpful in bringing them to closure. We recognize we have some distance to go here.

TERRORIST FINANCING

Senator BOND. I—again, I'm concerned, as I mentioned earlier, about your work on terrorist financing. We created the Office of Intelligence and Analysis, but Treasury, it appears to us, has not stepped up to the plate. This seems to support the conclusions that OIA will merely become an operational unit, not adding any value or, even worse, assuming the role of the Treasury's current assets at OFAC and FinCEN.

What will the roughly 25 analysts transferred from OFAC to OIA be doing that is different from what they were doing at OFAC? And how will this transfer impact the OFAC? And I'd just ask the general question, shouldn't the OIA serve the policy makers at Treasury and leave the operations to operational units? That's my concern.

Secretary SNOW. Right. Mr. Chairman, this is an issue that we spent a lot of time on thinking through and trying to get right. And the very able Under Secretary who is responsible for this whole collection of activities, anti-money laundering, terrorist finance, protecting the financial system against money laundering and terrorist finance, and leading the financial war on terror, came to the conclusion as he looked at his organization that the best way to fulfill the responsibilities, the critically important responsibility he has, is to take the intelligence function and concentrate it under the new Assistant Secretary for Intelligence and Analysis.

As he's told me, these people, these—I think it's 23 analysts who were in OFAC—even if there had been no resource constraints on the Department, are the very people you would want at the center of the intelligence-gathering activities to strengthen our ability to carry on these functions. And OFAC will be able to have full access to the intelligence that's gathered.

His view, and I share it, is that our function will be strengthened by putting the intelligence under a very capable Assistant Secretary for Intelligence and Analysis, and then led by a person whose full-time job is intelligence.

Senator BOND. Thank you, Mr. Secretary. I'll have further questions on that, but now I'll turn to Senator Murray.

Senator MURRAY. Mr. Chairman, with your permission, I want to yield to Senator Byrd. He has a time commitment.

SOCIAL SECURITY

Senator BYRD. I thank you, Mr. Chairman. I thank you, Senator Murray. Mr. Secretary, I only have 5 minutes. I have several questions. I'll try to ask only five. I hope we can limit them to 1 minute each.

Mr. Secretary, Mr. Bush told workers in his State of the Union address that, with regard to personal accounts, your money will grow over time at a greater rate than anything the current system can deliver. Question No. 1: However, the stock market has ups and downs. If workers retire when the stock market is down, they're in deep trouble. They can't wait for the market to recover. What guarantee would the administration support to ensure a minimum benefit from an individual account?

Secretary SNOW. Senator, you're right. Markets go up and down, but over any long period of time, the evidence suggests that investments in the market over a working life will produce rates of return that are higher than what you could expect from Social Security. And while there's not a guarantee, there is this long history of the superior performance of markets.

But taking your point, under the President's proposal, and we're continuing to think about how to put this forward in a way that's most effective, there is the suggestion that it—I think it's 47—when a person turns 47, their account would automatically shift heavily into fixed-income instruments, bonds, so the principal would be protected. But it's a good point and one we've been giving a lot of thought to.

Senator BYRD. What happens if the checks that you mentioned prove insufficient? What happens when it comes time to retire and a worker discovers that he doesn't have enough saved away to ensure a decent, respectable living? What happens to that worker?

Secretary SNOW. Senator, the President recently indicated his support for a proposal associated with somebody named Bob Posen. And the Posen proposal is designed to make sure that nobody retires below the poverty level. That's a view I think that is widely held within the administration as well. And in the final legislation I'm confident that there would be language to assure that that outcome is achieved.

Senator BYRD. Under the President's plan, what guarantee would workers have of receiving the level of benefits scheduled under current law?

Secretary SNOW. Senator, the Social Security Administration Actuary indicates that in—I think it's 2041—the benefits will fall to the level the trust fund can't afford to pay, which is their revenue stream, which is about 70 percent. The idea of the personal accounts is that you could do better with the personal accounts than you could do with Social Security alone. But the details of that have to await the discussion with you and the members of the Senate and the House.

Senator BYRD. What happens to a worker whose account has not accrued enough to buy an annuity to guarantee a payment above the poverty line?

Secretary SNOW. Senator, as I said, the administration's view broadly stated, and the President indicated this in some comments he made recently, is that we need to assure people who have had a working life that they retire above the poverty line. And I think that idea will be incorporated in our final set of proposals.

Senator BYRD. Mr. Secretary, we've heard a great deal about the President's "plan". When will the President submit his "plan" in detail, and with respect to a draft bill that would contain those details so that the Congress will know what is being suggested and how to respond to that?

Secretary SNOW. Well, the President has indicated, Senator, that he wants this broad dialogue and he thinks that out of the broad dialogue in which he's put some ideas forward and invited others to come back with other ideas, that that broad dialogue, that environment of open ideas, is better calculated to create a good result than now laying out a firm set of proposals.

In part, I think it's because of the need for this education we talked about earlier. And I appreciate what Senator Murray said, that now because of this effort to go to the country, there is a better understanding of the importance of Social Security, the role it plays in our lives, and I think also of the need to find ways to put it on a financially sustainable course.

Senator BYRD. I have one final question, Mr. Secretary. You say that we seek information, that we seek a dialogue, that the President seeks a dialogue. How can we have a dialogue, when we don't know what's in the details of the President's plan? We need to know the details of that, so that we can then have a real dialogue. Can you respond?

Secretary SNOW. Well, I'll try, Senator. The President has set up his proposal that's fairly detailed on the personal accounts and how those would work, setting aside up to 4 percent of income, up to $1,000 growing at $100 a year plus the wage index, with a lot of other details.

On the solvency side, the President has said we need to have a permanent solution. It has to be done in a way that doesn't adversely affect retirees or near-retirees. And he's sent up a number of proposals. I think this came out of the State of the Union message on ways that you might fix the sustainability, how you might put it on a solvent course. That included going to a price index versus a wage index and changing the formula for calculating inflation on benefits and changing wage indexing and some means-testing and so on.

His point in sending that up was, these are good ideas. He subsequently said he sees merit in this Posen proposal I mentioned. And he's saying, if you, the Members of the Congress, the Republican side, Democratic side, like these ideas, I want to work with you, if you've got better ideas I want to work with you.

And the President's view is that out of this dialogue about these proposals, having to find the problem will get the best result. At some point maybe it will be necessary to come forward with a more detailed proposal. But the current hypothesis the President's working under is that laying it out the way he has is best calculated to get good results in the end. People can disagree on that, I agree.

Senator BYRD. Mr. Secretary, I thank you. I'll submit further questions. I don't think much of the idea of waiting beyond midterm to let the Congress and the people of the country know what the details are of the President's plan. Let's hear it from the President.

Thank you, Mr. Secretary. Thank you, Mr. Chairman, and thank you, Senator Murray.

Senator BOND. Thank you, Senator Byrd. Senator Murray.

Senator MURRAY. Thank you, Mr. Chairman. Mr. Secretary, I understand that the Treasury Department has reportedly formed a Social Security war room that included hiring five full-time employees. The stated purpose of the Social Security Information Center, as it's named, is to monitor political reaction to the administration's Social Security proposal, as well as to coordinate public affairs activities for it.

Our appropriations bill has included a provision for dozens of years that states the following, and I want to read it out to you: "No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch other than for normal and recognized executive/legislative relationships for publicity or propaganda purposes and for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself."

Mr. Secretary, do you have any reason to believe that any of the activities of this Social Security Information Center or any other part of your agency could be in violation of that provision?

Secretary SNOW. No, most definitely not, Senator. The President has identified Social Security as a priority. I serve as the managing director of the Social Security Trustees. The actuary of the Social Security system has pointed out in the reports and told the trustees that the system isn't sustainable.

I think we have a responsibility, given the financial condition of Social Security, to talk to the country about it, inform the country, have the dialogue with the country, and lay the foundation through that dialogue of public information, and that's what this is, public information, lay the foundation through that broad-based public information dialogue to——

Senator MURRAY. Well, Mr. Secretary——

Secretary SNOW [continuing]. To get some answers.

Senator MURRAY. Is the Treasury Department engaged in providing funds in the form of compensation for any opinion leader or any media personality for the purpose of advancing the President's Social Security——

Secretary SNOW. No.

Senator MURRAY. No? Okay.

Secretary SNOW. This office is four or five people. It's a normal public affairs function that serves under the Assistant Secretary for Public Affairs, Rob Nichols, who oversees the entire office, and it's funded entirely out of his executive budget.

Senator MURRAY. Okay. Has the Department used any of those funds to produce television or radio segments that address the issue of Social Security that have been disseminated to media outlets?

Secretary SNOW. Not that I'm aware of, Senator. I'll check and see. I don't think so.

Senator MURRAY. Okay. Have you taken any safeguards to ensure that any elements of your Department, especially the Social Security information center, are not in violation of the law as it relates to the promotion of legislation that's pending?

Secretary SNOW. Senator, the activities of this office are reviewed by the Inspector General and they're reviewed by the general counsel. Both parts of Treasury are peopled by very able staff, and they know our commitment to living within the rules of the law. So, no, I have no reason to be concerned there.

TAXPAYER SERVICE

Senator MURRAY. Thank you very much. I appreciate that. Mr. Secretary, last year your Department testified that the key to getting greater compliance with our tax laws was through a combination of enforcement and taxpayer service. This year, however, you are poised to make significant cuts to taxpayer services in order to pay for your requested increase in enforcement. These cuts, as I had talked about, are closing taxpayer assistance centers, reducing telephone service, eliminating phone-routing sites, discontinuing filing by telephone. All of these are used by millions of taxpayers and businesses.

And I wanted to ask you today why your agency abandoned its position regarding the important balance between taxpayer services and enforcement?

Secretary SNOW. Well, Senator, I don't think we have. It's a balance we always strive to reach. It's never easy, but it's certainly our objective to be balanced in law enforcement and in customer service.

Senator MURRAY. Are you concerned that any of these reductions will result in less compliance with the tax code?

Secretary SNOW. Senator, I don't think so, but that's something that we will monitor. This is a running dialogue when I meet regularly with the IRS Commissioner, and he knows my deep concern in seeing that the IRS find that middle way where they're collecting the revenues, enforcing the law, creating an environment of law enforcement, but doing so in a way that respects the rights of taxpayers and treats them with dignity.

On that very subject I had a long discussion yesterday with Nina Olson, the head of the taxpayer advocacy part of the IRS, and we do our best. I'm sure we make mistakes, but we do our best to try and find the middle ground. And with respect to the Taxpayer Assistance Centers, we're going to monitor that. We think that it's the right thing to do, but we're going to continue to monitor that to make sure that's the case.

Senator MURRAY. Well, I hope we do monitor it. I'm worried that it will monitoring something that's already closed, it'll be too late to start it. But I did—you mentioned in your remarks at the beginning your reprogramming request for fiscal year 2005?

Secretary SNOW. Yes.

Senator MURRAY. Well, given the priority that your budget places on tax and law enforcement, I'm kind of mystified as to why this reprogramming request asks us to transfer $11.5 million out of tax law enforcement to Business Systems Modernization. Can you address that?

Secretary SNOW. Yeah. Again, we're just trying to get the balance right, and getting that balance right is something that sometimes requires some movement of funds from one pocket to another or one box to another box.

Senator MURRAY. My time is up, Mr. Chairman.

OFFICE OF INTELLIGENCE AND ANALYSIS

Senator BOND. Thank you, Senator Murray. Mr. Secretary, I've asked you about intelligence operations and I want to follow up. Can you explain to us in simple terms what you're doing with OIA and the relationship with OFAC and FinCEN. I'd like to know what you think OIA's appropriate role is, especially when it appears to be duplicating some of the work of OFAC and FinCEN? In addition, has OIA produced any analytic product for Treasury or the intelligence community?

Secretary SNOW. Yes, Senator, but it's a new part of the Treasury. It's going to be a very important part of Treasury. It's going to underpin the whole Department actually, because everything rests ultimately on good intelligence. Having a strong intelligence component of the Department means we get a seat at the table with the other intelligence agencies of the United States Government, and that seat at the table with real capacity, with real status and resources means that we're going to be much more effective in drawing information, sharing information, and having the confidence of others in the intelligence community.

And that's really the objective here, having the confidence of others in the intelligence community, having a strong seat at the table, and being able to play effectively in the intelligence-sharing arena with the other 15 or 16 agencies of the Federal Government who were involved in intelligence.

BSA DIRECT

Senator BOND. You have delegated responsibility to administer the Bank Secrecy Act, or BSA, to FinCEN, and last year the committee provided $5 million over the President's request for FinCEN to complete the first phase of BSA Direct. Do you support the BSA Direct project, and what's its current status?

Secretary SNOW. Senator, I very much support it. I noted your comments in your opening statement on that. I share those views that it should be under TFI, it should be under FinCEN, and we hope to have that BSA Direct completed by, I think it's September or October of this year, where then FinCEN would have its own secure data system.

Senator BOND. Do you think BSA Direct is going to improve the security gaps of BSA data as the GAO reported?

Secretary SNOW. Yes, absolutely. I think it will, and that's one of its key purposes.

Senator BOND. What's the relationship between the IRS and FinCEN in the sharing of data, and what safeguards and firewalls are in place?

Secretary SNOW. Well, Senator, historically of course the Detroit Computing Center has been a source of substantial repository of data that was used. It was the principal data center. What we're doing is moving off of the dependence on the IRS data system to BSA Direct, which will then give FinCEN control over the data it needs to carry on its activities. I think it'll be a much better arrangement.

CUBA SANCTIONS

Senator BOND. Let me turn to trade. I'm a supporter of trade sanctions reform, the Export Promotion Act of 2000, and the Agricultural Export Facilitation Act. They first cleared the way for agriculture exports to Cuba. The second reforms the requirements of OFAC regulations that are frustrating farmers' efforts to sell in the market.

Congress has spoken clearly that there's a significant growing market for U.S. agricultural goods in Cuba, which has grown to over $400 million a year. However, the OFAC rules requiring advance cash payment or a letter of credit are essentially frustrating the efforts of U.S. farmers ability to sell to Cuba. This has all the earmarks and as well as smelling like a regulatory effort to stop agriculture trade with Cuba.

I don't think we can kick away a $400 million export market. If that is not the intent, what was the compelling need to issue the regulations? How are the concerns of farmers, the reason for passing the legislation, taken into account? And I'd like to hear an explanation of what's happening.

Secretary SNOW. Well, I understand this ruling has sparked some interest in the Congress.

Senator BOND. A master of understatement, Mr. Secretary. I give you credit for that.

Secretary SNOW. And it came about, Mr. Chairman, because of a request from financial institutions for a clarification of the so-called cash in advance policy. And cash in advance is the term of art used in the statute, and the OFAC lawyers, when they looked into that request for clarification, determined that the best statutory construction was cash in advance of shipment.

There had been some people in the trade who were complying with it through cash in advance of title transfer or cash in advance of lading transfer. And in looking into it and thinking about it, the lawyers at the Department, the lawyers at OFAC and then at the General Counsel's office, reached the conclusion that the better reading of cash in advance was that it meant cash in advance of shipment.

Senator BOND. We'll have to help the lawyers understand that better. Senator Murray.

TAX AND TRADE BUREAU

Senator MURRAY. Thank you, Mr. Chairman. Mr. Secretary, I talked a little bit about the wine industry in my State in my opening statement, and I wanted to ask you today about the large number of user fees you have in your budget request. In one small agency, the Alcohol and Tobacco Tax and Trade Bureau, you're asking to impose five new or increased fees equaling 31 percent of the agency's budget.

I'm told there's no direct relationship between the actual services the wine-making industry receives from TTB and the fees you now want to impose on them. And I want to know why there's no correlation. And wouldn't you agree that if there's no correlation that these really are new taxes and not user fees?

Secretary SNOW. Senator, I think the users, the people who get services from TTB, get something of value, and these charges or fees are designed to reflect some of the value that is received by the users back on to the users. The goal is to have the industry pay for some portion of the benefits that it gets.

Senator MURRAY. Well, are you aware that the wine industry already pays $550 million in Federal excise taxes every year? How did you ever come to the conclusion they needed to pay more?

Secretary SNOW. Well, Senator, the banks fund the Federal Reserve and the thrifts fund OTS, the national banks fund the OCC. There's a well-established tradition in this country that if you're regulated, some portion of the costs of the regulatory activities should be borne by the regulatees.

Senator MURRAY. Well, let me also ask you, I know your agency is planning to penalize vineyards that don't file their certifications electronically by charging a higher fee to use paper filing. But I'm told by the industry that they have a lot of problems with the electronic filing system. They have difficulty registering just to use it, it often rejects their label graphics, and when those labels are rejected, the system only cites the portion of the regulation the labels violated, which doesn't actually tell the vineyard what the problem is and how they can fix it.

You know, I also should tell you that the paper processing system isn't much better. TTB claims to be processing labels in 9 days, but I'm told it takes anywhere from 2 to 4 weeks. And I wondered if you considered improving the online processing system to make it workable for the industry before we started imposing fees.

Secretary SNOW. Well, Senator, I appreciate your comments. I will commit to you that I will look into that and get myself better informed about the paperwork burden and the feasibility of moving to electronic filing.

Senator MURRAY. Do you know if there's any—are there any new initiatives to make them more user-friendly, or is—the only new initiative is user fees? That's what I'm hearing from the industry.

Secretary SNOW. Well, I think TTB gets pretty high marks from the industry by and large. I think they're thought to be a responsive agency that tries to do things in ways that are reasonable. But we have Harry Damelin, the very able new head of the Inspector General's office here. He's listening to this. I'm sure he's taking this in and he'll help us take a look at that.

Senator MURRAY. Okay, very good. Well, I look forward to hearing more from you on that, because it really is concerning many of us. And I understand the chairman has a wine industry in his State as well, so I'm sure we'll be able to work on that.

Senator BOND. Long before yours.

Senator MURRAY. Long before mine, I'm told. Well, maybe we should compare. We can have a taste test. And professionally, of course.

Let me ask one more quick question. In the interest of better isolating terrorist financing, your Department is considering a proposal to track financial wire transfers into and out of the United States. Those wire transfers represent more than $6 trillion worth of activity per day, and while some officials and experts believe that wire transfers might contain useful information to track down terrorists, others are very concerned that the volume might overwhelm any tracking system you can put in place. And others are worried that your efforts might invade the privacy rights of individuals and businesses.

In my short time left, can you tell me how the Department can realistically monitor this, and how we're going to monitor the privacy of individuals?

Secretary SNOW. Senator, those are the very issues that are under review in this analysis that's been undertaken. And we will keep you posted as we move forward with our thoughts on that subject. But it is an issue that needs to be addressed.

Senator MURRAY. Are you requesting additional funds to do that monitoring, or how is that going to——

Secretary SNOW. I think there's a study underway right now that's adequately funded.

Senator MURRAY. So do you need—do you anticipate any new funding needed to monitor this, both for privacy and——

Secretary SNOW. Well, if there is one, we're some distance away from having a proposal on this, and as that is thought about and developed, we'll certainly think about the budgetary side of it and appropriations side of it as well. But I don't have an answer to you yet.

Senator MURRAY. Thank you very much, Mr. Chairman.

Senator BOND. Thank you, Senator Murray. Senator Dorgan.

CUBA SANCTIONS

Senator DORGAN. Mr. Chairman, thank you very much. Secretary Snow, I apologize for being late. I was over on the floor of the Senate. But I do have some questions, and I understand my colleagues have asked some of them. In fact, I was pleased to hear the question from the Senator from Missouri, the Chairman, about Cuba and family farmers.

Let me just make a point on that. You know, the Congressional Research Service in writing says that it believes what the Treasury is doing here does not conform to the law. So I don't know what lawyers you have over in OFAC that are giving advice there, but at least the Congressional Research Service says they believe you've gone outside of the law to do this.

Before I ask you about Cuba, I should tell you that Secretary O'Neill sat at that table before you, and I was chairing the subcommittee at that point, and I asked him repeatedly about Cuba and said, you know, just let me ask you a question, wouldn't you prefer to use the resources at OFAC, the Office of Foreign Assets Control, to track terrorist financing rather than track people who are under suspicion of vacationing in Cuba, or tracking Joan Scott, who delivered free Bibles in Cuba, tracking Joan Sloat, who took a bicycle trip with a Canadian bicycling group, or tracking the guy who took his dad's ashes to be distributed at the church his dad used to minister in.

I asked Secretary O'Neill three times, wouldn't you really sooner use OFAC to track terrorist financing rather than go after these people who are suspected of taking a vacation in Cuba or whatever. And finally on the third or fourth time, he said, you know, of course, of course. And within hours, he was upbraided with a press release from the White House. So I'm not going to ask you a question that's going to get you in trouble. My intent isn't to ask you a question for that reason, but wouldn't you sooner use the assets of the——

All right. Skip that question. You can put your answer in writing if you'd like and I promise I won't share it with anybody, Mr. Secretary.

The Chairman asked the question about the issue of shipments to Cuba, the agriculture shipments, and we have something called the Trade Sanctions and Export Enhancement Act of 2000. I helped write it. And it was put in the bill—these are sanctions that—it says you cannot do anything to impede the movement of agricultural products unless there's a vote of both the House and the Senate to do so.

And clearly this is a—what you have done is a prohibition or a condition or a restriction on the export of agricultural commodities. It is clearly done to impede the movement of agricultural commodities. Everyone understands that and believes that. And I would just ask, have you, Mr. Secretary, studied the Congressional Research Service report that says on its face they believe that what Treasury has done here is not legal?

Secretary SNOW. No, Senator. I haven't. But I'm sure the lawyers from Treasury have, but I have not.

Senator DORGAN. All right. Do you know how many lawyers in OFAC are tracking vacationers to Cuba and tracking all these issues dealing with agricultural sales to Cuba? My understanding is it's something like 21, which is a multiple of 4 of those who are tracking terrorist financing.

Secretary SNOW. Senator, I don't have that number in my head, but I will confirm——

Senator DORGAN. Would you send that to me?

Secretary SNOW [continuing]. It for you. Yeah, I will send it to you.

Senator DORGAN. I would hope that just behind the curtain you'll be a lonely voice in the administration saying, let's just stop the obsession here. We don't like Castro. The quickest way to get rid of Castro is through trade and tourism, just as we believe that engagement with communist China and communist Vietnam has enhanced—moving them in the right direction is enhanced by trade and tourism. We believe the same with respect to Cuba.

NEW HOMESTEAD ACT

But let me ask you two other quick questions if I have the time, Mr. Chairman. One is I want to show you a chart. This chart shows the depopulation of the heartland. The red are the rural counties in America. As you can see, kind of an egg-shaped in the heartland of America that's being depopulated in the last quarter century or last half century.

And Senator Hagel from Nebraska, Senator Brownback, myself, and others have introduced legislation called the New Homestead Act. We don't have land to give away anymore, but we clearly are seeing a relentless depopulation a century after we populated this through the Homestead Act. I'd like very much to visit with you at some point about the strategy here. It's bipartisan. We've had a big, broad bipartisan group put this together, and I'd like to talk to you about that.

TAX HAVENS

Finally, I want to ask you a question about tax havens. Let me express my concern. I think Senator Murray expressed concern about closing walk-in taxpayer assistance centers. I want to register on that. But I've introduced some legislation on tax havens. I read the other day that Exxon has the largest quarterly profit in the history of humankind, $8 billion for the quarter, and I know that Exxon has 11 tax haven subsidiaries in the Bahamas, not for the purpose of doing business there, but for the purpose of helping run the corporation out of a mailbox and reducing their tax burden in the United States.

And I've introduced legislation that says, you know, if you're moving to tax havens not for the purpose of doing business there, but for the purpose of avoiding taxes, you're going to be taxed just as if you never left this country. And I'm wondering, give me your observation about that approach.

Secretary SNOW. Well, Senator if the activity is done primarily to avoid taxes and not for a profit undertaking, profit-making purpose, then it shouldn't enjoy the tax advantages. I mean, that's part of the policy that we're trying to see incorporated in the enforcement. It's the essence of this doctrine that lies behind so much of our enforcement. If it doesn't have a legitimate business purpose, then you're not going to get the tax advantage associated with it.

Senator DORGAN. But I think you need a change in law to accomplish good enforcement here. And I think that when you take a look at all of these subsidiaries sort of being established, I mentioned Exxon, I mention Xerox, Halliburton, so many corporations have set up massive numbers of subsidiaries, not for the purposes of doing business, but for the purpose of avoiding taxation. I would fully support your increased enforcement efforts, but I think you need a change in legislation that would say, in those circumstances where they set it up exclusively to avoid paying U.S. taxes, they shall be taxed as if they had not left this country.

Mr. Chairman, thank you. I apologize for being late to you and the ranking member.

Senator BOND. Well, we missed you, Senator Dorgan. We're glad you could join us. Unfortunately, I'm going to have to turn the gavel over to my very capable ranking member because I have to go to the floor soon where I have a few things going on now.

CDFI FUND

But I want to ask you about two things, Mr. Secretary. I mentioned I'm very disappointed in the decision to—essentially to eviscerate CDFI. CDFI funds go to financial institutions that are serving areas that are underserved by financial institutions. And I, as a former Governor, can tell you there's a minimum amount of high enthusiasm for using a block grant to ensure that underserved areas have financial institutions. It just makes no sense.

What's the administration going to do to ensure that financial institutions which are serving underserved areas will continue to have the incentive and capacity to continue to serve these areas?

Secretary SNOW. Well, Senator, I'm not real close to all that's going on in that arena. That's really Secretary Jackson and Secretary Gutierrez. But I am pleased that the most important single part of the Treasury programs in this area, something called the New Markets Tax Credit, will remain fully funded as part of the Treasury Department.

With respect to the other consolidation of these programs, primarily in Commerce as I understand it, the view is that these programs will be more effective if they're streamlined and consolidated.

Senator BOND. I just disagree on that. But since you mentioned New Markets, CDFI would be funded at only $7.9 million. GAO found in a January 2004 report that under the New Market's formula, 39 percent of all census tracks qualify for these tax credits. I'm wondering if there's any effective administration in the Treasury Department to know that it's benefiting, truly benefiting economically distressed programs. What quantitative methods are used to determine if this program works? And what's the Treasury doing to ensure these tax credits are meeting benchmarks, and can you quantify the success or failure of the program?

Secretary SNOW. Mr. Chairman, that's a heck of a good question. This program——

Senator BOND. I thought it was too.

Secretary SNOW. It's a heck of a good question.

Senator BOND. Because I really—I have great questions about New Markets. I'm afraid it's just throwing money out the door.

Secretary SNOW. Well, it's the very question that I have put to the folks who oversee the program. Having participated in a number of these meetings though with local participants, you get a sense when you're out there and see a community—they only go to poor communities—that bringing private capital with the tax credits, with community leaders, produces some good results. Now, whether in the aggregate the benefits significantly or marginally or don't exceed the costs of the tax credits is something that we have to do more analysis on. It's probably too early to say. It would be too early to say.

Senator BOND. I tell you what, I've never gone to a community that has gotten some Federal money, either from direct strategic investment or a program like this that doesn't turn out a bunch of people who are very happy and enthusiastic about the success of the program that's funding them. That's not hard to do.

But I would—I'd welcome if you would provide for the record the benchmarks, how we know they're working, what you're doing as to oversight, what standards you expect them to meet, and how are you judging the effectiveness.

BUSINESS SYSTEMS MODERNIZATION

Let me go back to one question that I am very much concerned about, which as I said, I raised with the Commissioner of the IRS; namely, the Business Systems Modernization. Two billion dollars going down a rat hole may be a little harsh, but almost every procurement activity is behind schedule, over budget, and when the contractor delivers software, we have been told it does not meet performance requirements.

Since you've come from the private sector, Mr. Secretary, would you have spent $2 billion on the program? Do you believe the improvements are worth the money? And if you were directly in charge, would you consider pulling the plug, or what criteria would you establish to make sure it works?

Secretary SNOW. Mr. Chairman, like so many other large information systems projects, this one was probably overly grandiose at the beginning, promised too much and tried to do too much. I think the requirements were not adequately defined. They were poorly defined. I think the IRS was trying to do too much too fast, and the results show.

Commissioner Everson is taking, I think, a very enlightened, intelligent, thoughtful view, let's try and set forth to targets for the BSM that are achievable, let's not overreach. And he and the very able CIO there, Todd Grams, are getting good results. I think last year was probably the best year ever in the history of the BSM initiative. I know that Commissioner Everson takes a direct personal interest in it. He knows that the story there is not a good one and that there's a lot of recouping to be done.

But the updates of the Customer Account Data Engine are really showing good results. They've taken me through that. I'm very pleased. A long way to go, we can't declare victory. But I think sizing it better, having a better sense of requirements and milestones with a smaller budget actually is producing better results than the very large budget that formerly was standard operating practice.

Senator BOND. Mr. Secretary, I had suggested to OMB Director Bolten that with some $60 billion going out to IT programs that I think OMB should have, in the past and certainly now, a real talent pool with high-class capabilities to make sure that we don't continue to run into the IT problems which we see throughout the government; problems we see at every agency and in every IT solicitation. Consequently, I believe we need a professional and expert IT solicitation panel that can ensure Federal agencies can adequately address their IT needs.

With that, again, I apologize, I have to go to the floor, and I will now turn the hearing over to Senator Murray. Senator. Thank you, Mr. Secretary.

Secretary SNOW. Thank you, Mr. Chairman.

HR CONNECT

Senator MURRAY [presiding]. Thank you, Mr. Chairman. Mr. Secretary, in my opening statement I talked about the concern I had about the continuing reports we are getting regarding mismanaged and costly procurements at your Department, and I want to talk about one of them this morning in the hope that you'll tell us that the agency is implementing some lasting and effective improvements.

Five years ago, the Treasury Department decided to expand IRS's effort to develop a new common human resource information system to all of Treasury's offices and bureaus. It's known as HR Connect, and it's gotten excessively expensive and it is not delivering on its original goals.

Can you tell us why a similar human resources system at the Coast Guard and the Ag Department cost $24 million and $15 million respectively, but HR Connect is costing you $173 million?

Secretary SNOW. I'd want to talk to the people who were directly responsible for it to get a better feel for those numbers. HR Connect is, I understand, currently in operation. And—well, I would say it differently—it's in the operations and maintenance phase of its life cycle, and major systems development has been completed. The initiative though is far from complete in its totality, and the final steps of transition from development to operations and maintenance are expected to be completed for fiscal year 2006. And it's something that I'll have to look into to get you a more complete answer and I'll do that.

[The information follows:]

Appendix V

Management's Response to the Draft Report

RECEIVED

JAN 18 2005

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220
JAN 18 2005

MEMORANDUM FOR GORDON C. MILBURN III
ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

FROM: Ira L. Hobbs
Chief Information Officer

SUBJECT: Draft TIGTA Report: The Department of the Treasury's HR Connect Human Resources System Was Not Effectively Implemented, dated December 3, 2004 (Audit #2003-10-022)

Thank you for the opportunity to review the draft audit report. We appreciate the discussion of an earlier version and acknowledge the changes you made concerning our comments. With the realignment of the HR Connect program to the Office of the Chief Information Officer (OCIO) in September 2004, we have now completed the transfer of all program responsibilities, including continued audit follow up. Effective with this response, the OCIO will handle all TIGTA inquires on HR Connect. It is our intent to use this report to enhance HR Connect program performance going forward and to strengthen oversight. Attached please find our response to your recommendations, and to the outcome measures that are addressed in the final four bullets beginning on page 2. Also, we identified no materials that require FOIA protection.

We would like you to be aware that:

- Despite the challenges of designing and implementing this large and complex program over a period of years, HR Connect is now successfully deployed throughout Treasury in eleven bureaus currently using the National Finance Center (NFC) for payroll services. HR Connect delivered 26 broad functions and is widely used in a self-service delivery mode by managers and employees throughout Treasury and by components of the Departments of Homeland Security and Justice. HR Connect is also being deployed at the Department of Housing and Urban Development. Through mid-September 2004, over 1.8 million tasks have been completed in HR Connect.
- Treasury rigorously reviewed the basis for its actual and estimated costs and benefits to improve the reliability of its assumptions, financial and metric data that established a solid foundation for enhanced program management, with the FY2006 Exhibit 300 submission to OMB. That submission also documented the incorporation of CareerConnector (which became operational in FY2004) into the HR Connect suite of services. We have taken steps to improve program oversight. With the realignment of the HR Connect program under the OCIO, we continued the governance structure that includes bureau and customer participation at the executive level (to recommend strategic direction and enhancements) and added an Executive Steering Committee, with membership composed of the Treasury's Chief Human Capital Officer (CHCO), the Deputy CHCO, the Chief Information Officer (CIO), and Associate CIO - HR Connect, with decision authority, to guide the program through its operations and maintenance phase of the life-cycle.

The Department of the Treasury's HR Connect Human Resources System Was Not Effectively Implemented

Specifically, our comments to the audit findings are as follows:

- The identification of factors that extended the IRS deployment accurately pinpoints several that were outside the control of the program office, such as filing season priorities. As of May 2004, all IRS employee records and transactions were being processed through HR Connect; thus completing IRS implementation.
- The comparison of different PeopleSoft implementations across government as a measure of effective management assumes similarity. However, the report does not account for differences in scope, methodology, and business requirements. The comparative data does not explain what is included in the costs of these implementations, making a comparison to HR Connect costs inconclusive, other than to say the latter took longer and cost more.
- IRS officials confirm that their HR Connect Working Capital Fund payments, from FY 2003 to present, included over $3 million for CareerConnector. The HR Connect Program Office also funded $1.2 million for CareerConnector to host support and system integration/data feeds. The full recruitment solution was provided by coupling the requisition capability, competencies, and announcement criteria already operational in HR Connect with the best features of CareerConnector (e.g., on-line rating and ranking). The agreement between Treasury and IRS to integrate CareerConnector into the HR Connect suite of services as a component of HR Connect recruitment functionality was effective for FY2003, although CareerConnector was not operational for use by any Treasury bureau until November 2003, when IRS began its pilot.
- We disagree that the projected productivity savings of $454 million were unsubstantiated. Each year, as part of the Exhibit 300 submission, the IRS provides the HR Connect Program Office with FTE savings actually achieved and those estimated. The IRS Human Capital Office and Agency-Wide Shared Services confirm the anticipated FTE savings previously identified as being attributable to efficiencies gained by implementing HR Connect/Career Connector remain accurate. Savings at the IRS occurred in increments beginning in FY 2004 and are projected to reach the end-state level of 743 FTE by the end of FY 2006. As the incremental savings occur each year they are applied against critical IRS funding shortfalls during that fiscal year and/or are reinvested to mission critical programs via the budget process. IRS identifies and pools Service-wide savings, prioritizes needs, and redirects the savings for unfunded costs (e.g., pay raise) and high-priority programs.
- We have reevaluated and improved HR Connect documentation that reflects the benefits attributable to program implementation. However, we disagree that $150 million in "other savings" (i.e., time freed up by using HR Connect to perform self-service actions) is unsubstantiated. We used sophisticated commercial software that compares pre-HR Connect process steps and data assumptions provided by the bureaus, with those created by the HR Connect system. This software calculates potential savings that could be realized by full HR Connect utilization. A report documenting the results of this analysis was provided to each bureau.
- IRS officials disagree that $21million spent on the Integrated Personnel System (IPS) was wasted. IPS documentation was used to jump-start the HR Connect deployment at IRS; that included the IPS Fit Gap analysis; IPS Master Project Plan, Transition to Support Plan, Communications Plan, and readiness checklists. Also, transfer of highly specialized IRS and PeopleSoft knowledge occurred with the reassignment of five IPS team members to the IRS HR Connect team.

The Department of the Treasury's HR Connect Human Resources System Was Not Effectively Implemented

- We disagree that the $20 million expended on two contracts by the Program Office was wasted. By 1999 a personnel processing system was produced and an NFC interface was operational for the Office of the Comptroller of the Currency and the Bureau of Alcohol Tobacco and Firearms. Recognizing the potential for improvements, the Program Office adopted the recommendation of an independent consultant to cancel the contracts to improve business efficiencies.

If you have questions, please contact me on (202) 622-0021 or members of your staff can contact Lynn Eddy, Associate CIO – HR Connect, on (202) 622-1520. For questions concerning audit follow-up, please contact Jose Villar on (202) 622-6141.

Attachment

cc: Acting Assistant Secretary for Management,
Department of the Treasury

Deputy Commissioner, Support Services
Internal Revenue Service

Senator MURRAY. I would like to know, the Inspector General reported recently that the IRS let the contractor for this system make decisions that the agency itself should have been making. The IG said that the IRS's oversight of this program has been weak to non-existent. In fact, when the Appropriations Committee noted the cost growth and asked for a report on the program, the IRS even let the contractor prepare that report for this committee. These problems are fairly similar to what we've seen with the IRS business system modernization.

Can you share with this committee, is the Treasury Department and IRS incapable of conducting routine management and oversight of programs like these?

Secretary SNOW. Oh, I don't think so. I think that would overstate the case. From my experience in private life, difficulties with new information systems are not unknown to the best-run organizations. And I'll look forward to talking with the HR people and with the IG's office to get a better sense of this situation so I can talk to you more.

Senator MURRAY. Are there any measures being implemented across the Department to improve management and contract execution that you can share with us?

Secretary SNOW. Well, yes, we talked about some of the major ones already, the BSM at the IRS is the biggest, most far-reaching. And I think because of the focus that's been brought to bear on it, we're seeing real results. We're seeing that setting up understandable requirements with reachable sorts of targets and goals with people directly accountable with milestones is producing results. That's the model that always produces results in the information systems arena, and it's the one we're going to be taking throughout the Department.

TBARR PROJECT

Senator MURRAY. Okay. Well, let me ask you about one other area, and that's the Treasury Department's modernization of its building. Since 1996, we've been doing this through a program called TBARR. After $237 million in appropriated funds and significant senior leadership turnover, the main Treasury building project still has not been completed and the Treasury Annex hasn't even been touched.

The Treasury Inspector General noted that the direct involvement of the Deputy Secretary at one point in the building modernization helped improve the project, but now the Deputy Secretary has left, the acting Assistant Secretary for Management, who's been involved in this project has left, and so have quite a few other senior Treasury officials.

With the record of mismanagement with this program and all the vacancies, how can we be assured that the remaining funds we're asking for this year, which is $10 million, will be managed properly?

Secretary SNOW. Well, the Deputy Secretary, of course, is now the Secretary of the Energy Department, so he's still part of the administration, somebody I——

Senator MURRAY. But he doesn't have direct oversight of this program.

Secretary SNOW [continuing]. See regularly. And we've appointed a very able, very competent Acting Deputy Secretary to continue to oversee this initiative. We have in the pipeline, I hope receiving approval very shortly, a new Assistant Secretary for Management, who knows this is a priority to be overseen. And all I can do is tell you that we are committed to getting this project done with the $10 million that we've requested.

Senator MURRAY. Well, am I correct that fiscal year 2006 is the final year you're going to be requesting funds for TBARR, even though there's been no work done yet on the Treasury Annex?

Secretary SNOW. Yeah. The focus here is on the main building, the main Treasury building, which really is a treasure. But as with all buildings that go back a century plus, it's got to be modernized and updated, and that's costly. But it's an appropriate investment in the Treasury building which I think is the third oldest building in continuous operation. Abraham Lincoln once walked the halls. It's historic and we need to preserve its historic role in our country's history.

Senator MURRAY. Do you anticipate requesting any funding for repair of the Treasury Annex through the TBARR program, or actually through any other program?

Secretary SNOW. Well, we're going to need to have some work done on the Annex. Some work has been done, some safety work, some work on the elevators, and some of the things that are directly related to the safety of the people in the building. I think we will now need to have a maintenance budget at the Department, a regular funded maintenance budget. And one of the things in the past we haven't had was a maintenance budget, and of course if you don't maintain these great old buildings, they deteriorate on you, and then the cost is even greater.

Senator MURRAY. Senator Dorgan has another question. We'll have one final one when he is through.

TRADE DEFICIT

Senator DORGAN. Mr. Secretary, again thank you for being with us today and answering questions. I know that you came to our State recently, and we're always honored when a Cabinet official visits North Dakota. You were there to talk about Social Security, and I suspect, although I was not able to be there because we had votes that day, I expect that you agree with President Bush that there is a "crisis" of sorts in Social Security. I've observed previously that Social Security, according to the Social Security actuaries and the CBO, somewhere between those two, Social Security will remain fully solvent until President Bush is 106 years old. That is not a crisis, although I admit that perhaps we'll need some adjustments along the way, not major surgery.

But I think there is a crisis, and I think there's a crisis in international trade. Our trade deficit is a dramatic deficit. We're choking on trade debt. The China debt was up 30 percent last year to $162 billion with that one country alone. Tell me, how do you assess our trade situation? Is this debt serious? Troublesome? Do you think our trade policies are working?

Secretary SNOW. Senator, thanks, I had a good visit to Bismarck, and Bismarck High is a great school. So is the University of Mary that we visited.

The issue of Social Security and the crisis, that's semantics. It's a problem that needs to be addressed, and I'll leave others to put the adjective on it.

The trade deficit is also serious, and it's something we are trying to address. A large part of the trade deficit grows out of the fact that the United States is growing faster, higher GDP growth, and creating more disposable income than our trading partners, our major trading partners, Japan, the Euro zone, and so on. Thus, we are buying more from them than they are buying from us. We also have a lower propensity to save, higher propensity to consume, and some of that shows us in our appetite for their goods.

It's important for our trading partners to grow faster. It's one of the messages we try and take to them. You know, you may not be able to grow as fast as we would, because your population is growing more slowly—but your productivity can be as high, and if you have better growth policies, we'll narrow the trade gap.

Senator DORGAN. Mr. Secretary, though, isn't that a position that on its face is wrong with respect to China? China's growing much more rapidly than we are. Their economy is—has a very rapid rate of growth, and yet our trade deficit with China is growing dramatically. So on its face, isn't that argument—isn't that an argument that doesn't hold water with respect to China?

Secretary SNOW. Well, it's an argument that holds water with Japan and Germany and France and Italy and Spain and all of our major trading partners. Now, clearly China is growing very fast, 8, 9 percent. But our exports to China are growing at a double-digit rate as well. So we need to keep pressing China to open up more and deal with issues like intellectual property rights and the thievery of our ideas.

But I know China's going to continue to grow, I think, at a pretty good clip. But our exports are also there growing at a good clip. They should grow faster.

Senator DORGAN. But our imports are growing more rapidly. That's why the trade deficit increases. I mean, if you just look at one side and portray that as positive when in fact the other side is growing much more rapidly. My point is that the basic argument, I've heard you make it before, and I think it's the administration's position, our trade policies are working, and the only problem is our trading partners aren't growing fast enough, just take a look at China. China's growing much more rapidly than we are, and so is our trade deficit with China. I just think that undercuts the debate here about that.

My own sense about China is that you're right about counterfeiting and piracy, but the fact is that China wants us to be a sponge for all their trinkets and trousers and shirts and shoes and all the things they produce including high-tech, and yet they don't want to open their market to us and we sit around without the will, the nerve, or the backbone to say this is nonsense, we're not going to put up with this anymore.

This is in many ways about enforcement, it's about good trade agreements. I want to just ask you about this, because it's—if you are reading about China, the country with whom we have the largest growing trade deficit, an alarming trade deficit, they are now ratcheting up an automobile export industry. They're very quickly putting together an automobile industry and they're anxious to have an automobile export industry. And in fact one of our major car companies is suing China for stealing the blueprints for a car that they're now producing.

In our bilateral agreement with China, not done by this administration, done by the previous administration, but then all trade negotiators have the same mind set. They want to get into a room and reach an agreement as quickly as they can, notwithstanding what the agreement is. In our bilateral agreement, we agreed with China that on bilateral with respect to automobiles, they could impose a 25 percent tariff on U.S. cars that go to China and we would impose a 2.5 percent tariff on Chinese cars that come here.

So with a country with whom we had a huge deficit we agreed that they could impose a tariff that is 10 times larger in bilateral automobile trade. That's not only incompetent, that's just nuts. And yet, we now watch the Chinese gear up for an automobile export trade after we have this fundamentally unsound trade agreement with them. I mean, what do you make of that?

Secretary SNOW. Well, Senator, I'm not at all happy with the situation. Trade's got to be a two-way street as you're suggesting, and the Chinese need to accelerate their commitments to WTO, they need to move to a flexible currency, they need to open up their markets, they need to enforce the piracy laws and the counterfeiting laws and stop stealing our intellectual property. There's a lot to be fixed there, a lot to be fixed, and probably including going back and looking at some prior agreements.

Senator DORGAN. Madam Chair, one more point if I might, and then I'll conclude. You know that much of our trade issue with China's foreign policy, in fact, the interagency task force recommended that we take action against China based on wheat trade, and the answer was, no, that would be a too much of an in-your-face thing to do. So this is all soft-headed foreign policy.

But I think that it's important for our country to recognize our trade deficit is a crisis, it is a genuine crisis, No. 1. No. 2, I think a little backbone would be good for us. I think, you know, if we told the Chinese, you know you have all these goods you want to sell, why don't you try selling them in Zambia for the next year and see what kind of market you have, because we are a cash cow for the China hard currency needs at the moment given our trade deficit. And the fact is China needs this trade relation. If—we just need to have some backbone to say to the Chinese, we're going to take action if you don't own up to your responsibilities.

Well, Mr. Secretary, you and I will have further discussions about this. I would like to send you my—on the tax haven issue, with respect to treating them as if they never left, I would like to send you that bill and ask for the comments of the Treasury Department.

Secretary SNOW. I'd be delighted, Senator, and I look forward to talking to you about it.

Senator DORGAN. Thank you.

BONNEVILLE POWER ADMINISTRATION

Senator MURRAY. Thank you very much. Mr. Secretary, I just have one other issue, and that is, last week Director Bolten was here with us, and I asked him about borrowing authority for the Bonneville Power Administration, and I'm curious as to your views on this issue.

In your administration's budget, you have proposed to hold certain financial transactions like third-party financing against BPA's borrowing authority. As I told Director Bolten last week, this proposal is rich in irony because it contradicts the President's own fiscal year 2003 budget. For 2 years the administration opposed the Northwest delegation's effort to raise BPA's borrowing authority by $1.4 billion. In the 2003 budget, the President finally called for increasing this borrowing authority by $700 million, or actually half of what was needed.

But the budget also said that BPA should use other financing means like third-party financing to meet the remainder of its investments' needs. Yet here we are again 2 years later and your administration proposed to undercut the ability of BPA to use third-party financing by holding these and other types of transactions against their Treasury borrowing authority limit.

Last week Director Bolten said he'd get back to me on this, and I expect you'll have to do the same. But I would recommend that before the administration proposes legislative language like this, we ought to have a common understanding on whose debt this is.

And I just wanted to ask you, do you believe BPA's investments using third-party financing are liabilities of the U.S. Treasury or are they liabilities of the Northwest rate payers?

Secretary SNOW. Senator, I really would have to look into that, because I don't know enough about it to offer a thoughtful opinion, and I'd be reluctant without more knowledge to answer——

Senator MURRAY. Well, this is a——

Secretary SNOW [continuing]. Such a complicated question. But I will look into it and I will——

Senator MURRAY. This is a critical question for us. And believe me, rate payers in the State of Washington have really been hit from Enron on, and the answer to this question is absolutely critical. So I would like a response back as soon as possible from you.

Secretary SNOW. I will commit to do that.

[The information follows:]

BONNEVILLE POWER ADMINISTRATION (BPA)

The administration has encouraged BPA to seek private sector participation and joint financing of its transmission system upgrades and other capital investments that are structured to ensure that the financial risks of these investments are jointly shared by BPA and the private sector participants involved. When financial transactions are structured in this way, any resulting BPA obligation should not be counted against BPA's $4.45 billion statutory limit on the aggregate amount of debt that BPA has outstanding at any one time (BPA debt limit). For this reason, the administration's proposal excludes from the BPA debt limit third-party financings in which the private sector bears real financial risk, such as operating leases.

In contrast, the 30-year capital lease transaction that BPA entered into in 2004 is an example of a transaction involving debt that should be counted against the BPA debt limit. Under this transaction, a third party issued bonds backed solely by lease revenues required to be paid by BPA and used the proceeds to finance the cost of BPA's acquiring, constructing or equipping certain new transmission assets.

While the third party holds title to the assets, BPA has exclusive use and control of the assets during the 30-year lease period and, at the end of this period, BPA has the option to acquire the assets at minimal additional cost. The third party that issued the bonds has not borne any real financial risk. BPA's obligation to make lease payments under the capital lease is unconditional and not terminable unless BPA makes arrangements for the bonds to be repaid in full. Since repayment of the bonds depends wholly on BPA's making its guaranteed lease payments, the bonds are, in substance, a form of BPA debt which should be subject to the BPA debt limit. Under the administration's proposal, such debt would be subject to the limit.

Despite the apparent perception of market participants that debt issued under the 2004 BPA third-party lease transaction is implicitly guaranteed by the United States, and the fact that BPA is a wholly-Federal entity in the Department of Energy, this debt is not backed by the U.S. taxpayer. As a matter of sound budgetary and financial practice, the administration supports having statutory limits on Federal agencies' debt regardless of whether or not the debt is backed by the U.S. taxpayer. A central purpose of BPA's debt cap is not just to limit its liability to taxpayers, but also to regulate and limit its financial risk exposure for its ratepayers. An effective BPA debt limit, one that applies to all forms of BPA debt, will make BPA's financial condition more transparent to its ratepayers and other stakeholders and serve as an important financial control device.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. Members of the subcommittee who have additional questions will submit them for your response, and they will also be included for the record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

MISMANAGEMENT OF IRS EMPLOYEE TUITION ASSISTANCE PROGRAM

Question. Several years ago, the IRS established a tuition assistance program to help employees improve their accounting and information technology skills. This program was also supposed to improve training at taxpayer assistance centers since these centers have not had a good record at providing taxpayers with accurate guidance. To date, it appears that more than 60 percent of the funding for this program—some $7.2 million—has been used for overhead while only the remaining $2.8 million has gone toward true tuition assistance. This problem has persisted while nearly half of the employees eligible for the assistance have been denied by the agency.

Given the fact that your Department has told us that they are trying to enhance the skills of the IRS workforce, how is it that no one at IRS knew that this program was failing so badly?

What is being done to rectify the problem now?

Your agency has periodically justified efforts to push Federal jobs over to the private sector on the grounds that private employees might be better trained.

Given the way your Department has mismanaged these efforts to train your own employees, aren't the employees justified in complaining about your efforts to send their jobs to private contractors?

Answer. Since 2000, when the Human Resources Investment Fund (HRIF) was funded and developed jointly with the National Treasury Employees Union (NTEU), the IRS has spent $499 million on employee training. This included tens of millions of dollars spent on technical training for employees in the taxpayer assistance centers and call centers. The HRIF was not directed at funding this technical training. Indeed, training for skills needed in current occupations is not funded from the HRIF but from the operating budget of the IRS business units.

The amount available for HRIF tuition funding is set at no more than 2 percent of the overall training budget. Administrative costs are not paid from this allocation, but from general management programs. Even though the overhead associated with the HRIF did not reduce the amount available to employees for tuition assistance, we are currently analyzing the program to determine how to most effectively reduce the administrative costs.

MISMANAGEMENT OF TREASURY COMMUNICATIONS ENTERPRISE CONTRACT

Question. The Treasury Department let a contract for a new secure communications network to AT&T about 4 months ago and the contractor began work. I'm told, however, that the remaining project bidders protested the contract award, which GAO subsequently sustained. Apparently, the bidders protested successfully because your Department apparently did not give each of them all of the relevant bid data at the same time.

Mr. Secretary, why was there never a line item in the budget for this initiative? Doesn't an initiative of this size and importance merit some discussion in your budget documents?

Please explain to me what happened with this attempt to purchase a new communications system and who you are holding responsible for this botched procurement?

Answer. There is no line item in the budget because this initiative represents a service that is funded out of the Treasury Working Capital Fund (WCF). The WCF, funded by contributions from Bureaus, provides common administrative services for the Department. The intent of the Treasury Communications Enterprise (TCE) contract was to replace the expiring Treasury Communications System (TCS) contract, which is currently funded through WCF. The scope of these services focus on providing enterprise wide area network data communications services to Treasury Bureaus and Offices.

Treasury and GSA entered into a Memorandum of Understanding (MOU) on December 2, 2004 which stated that Treasury would evaluate the GSA's Networx services 3 years after the award of TCE. The losing bidders argued that this MOU materially altered the basis under which option years would be awarded. Treasury did not intend nor did it believe the MOU impacted the procurement as the Department fully intended to fulfill the option years of the TCE contract provided it represented the best value for the government. Consistent with effective IT management and procurement principles, the goal was to evaluate the TCE contract and determine the most cost-effective long term strategy which we did accomplish.

Question. Secretary Snow, I was pleased to read in your testimony that you recognize the important role of the Community Development and Financial Institutions (CDFI) Fund.

The President's Budget justification for the CDFI Fund states that, "Historically, for every dollar in investments provided by the CDFI Fund, awardees have been able to leverage these grants with over $20 in matching funds." That is an incredible amount of funds flowing into these economically distressed areas, especially considering the small Federal investment.

I was disappointed to see that the President's Budget for fiscal year 2006 calls for almost all CDFI funding to be sent to Commerce and combined with other community development programs, which will then be reduced by approximately a third.

Under the President's smaller substitute grant program, would all current CDFI programs still be eligible?

Answer. Although the manner in which the CDFI Fund accomplishes its mission is unique—through building the capacity of these lenders to provide improved access to financial services—the underlying objective is not unlike any of the other consolidated programs from the various cabinet agencies proposed to be consolidated at the Department of Commerce, which holds a primary mission of economic opportunity. Commerce has shown great skill in managing its programs and in greatly leveraging private sector investment. As currently envisioned, nothing would preclude the CDFI industry from being eligible sub-recipients of "Strengthening America's Communities" grant funds from communities and States that receive funding.

Under the Strengthening America's Communities Initiative the Treasury Department would focus on its fiscal year 2005 New Markets Tax Credit Program which will award $780 million of tax credits using $2 billion of its investment authority ($0.39 of each investment dollar), which is roughly 20 times larger than the CDFI Programs ($40 million in fiscal year 2005) proposed for consolidation to the Department of Commerce.

Question. How will you be able to ensure that the new smaller substitute grant program would be able to continue to leverage over $20 for every Federal dollar?

Answer. These types of details will be determined in close collaboration with Congress and stakeholder groups as the administration creates legislation for the initiative, which will be submitted to Congress.

The accountability measures and other requirements will reflect the administration's belief that local flexibility is more effective than Federal control. The administration will set accountability measures for the use of taxpayer dollars, requiring communities to show that they have made progress toward locally selected goals for development (such as job creation, homeownership, commercial development, improving blighted or abandoned properties, and increasing the number of businesses in their area) in return for being able to determine locally how best to spend Federal dollars to meet those outcomes.

As noted in the previous question, under the Strengthening America's Communities Initiative the Treasury Department would focus on its fiscal year 2005 New Markets Tax Credit Program which will award $780 million of tax credits using $2 billion of its investment authority ($0.39 of each investment dollar), which is roughly 20 times larger than the CDFI Programs ($40 million in fiscal year 2005) proposed for consolidation to the Department of Commerce.

Question. We understand that the staff that has the expertise in this area will not be transferred to the Department of Commerce.

What expertise does the Department of Commerce have in creating and supporting financial institutions that can provide access to affordable credit to distressed low-income minority communities that are not served by traditional banks?

Answer. The engine of economic and community development is economic opportunity, ownership and job growth. Because the focus of this initiative is on economic development, creating local job opportunities, and helping communities transition to self-sustaining economies, the Commerce Department's mission (job creation, economic development, and opportunity) is more consistent with those goals.

The Fiscal Year 2006 Budget provides funding for salaries and other administrative costs to close out grants from previous years. The administration will continue to address these questions as it develops its legislative proposal, which will be submitted to Congress in the coming months. It will provide the necessary authorities to transition the programs and ensure the necessary administrative resources to support their activities. The President's fiscal year 2006 budget provides the Department of Commerce with adequate funding to start up the new program in 2006.

Question. Currently, the CDFI Fund works directly with financial institutions, giving resources to institutions that would then provide the much needed financial services to these low-income communities. However, under the President's proposal, the money would go out to States and local entities, and then to financial institutions.

Won't this make the process less streamlined and merely add one more layer of bureaucracy, contrary to the President's justification for this consolidation effort?

Answer. Currently, seven Federal agencies administer 35 different grant, loan, and tax incentive programs for economic and community development efforts. The current system forces communities in need to navigate a maze of departments and programs in order access economic and community development assistance, each imposing a separate set of standards and reporting requirements.

In addition, some programs duplicate and overlap one another, and some have inconsistent criteria for eligibility and little accountability for how funds are spent. In fact, the Office of Management and Budget, through the PART analysis, has determined that many of these programs cannot sufficiently demonstrate that they make or contribute to a measurable improvement in economic and community well-being.

FINCEN HAS NO PENALTY FOR REGULATORS THAT DON'T COMPLY

Question. The Financial Crimes Enforcement Network (FinCEN) created a new office of compliance in response to fundamental weaknesses in the Treasury Department's system for compliance examination with the Bank Secrecy Act. FinCEN has set forth procedures for the exchange of Bank Secrecy Act information with its five Federal banking agencies, but as part of the memorandum of understanding with those entities, FinCEN did not include any penalty for noncompliance. And in the future, FinCEN expects to enter into even more such arrangements with other Federal regulatory agencies and State entities.

So, if FinCEN has no recourse with agencies that don't comply with the exchange of Bank Secrecy Act information, then how will the regulatory agencies seriously undertake this effort?

Answer. Following a series of Congressional hearings in the wake of the enforcement action against Riggs National Bank, N.A., FinCEN took a number of steps to enhance its ability to oversee and support the Bank Secrecy Act examination function being carried out by Federal agencies to which the Secretary of the Treasury has delegated Bank Secrecy Act examination authority. FinCEN created a new Office of Compliance within its Regulatory Division devoted exclusively to overseeing and supporting the examination regime. In addition, FinCEN has allocated a significant portion of its analytical resources to supporting examination-related review and analysis. Central to FinCEN's plan of stepping up its efforts relating to examination oversight and support is to ensure that, for the first time, FinCEN has sufficient information to assess how well its delegated examiners are functioning and evaluate and act on their findings. The Memorandum of Understanding executed with the Federal banking agencies last fall creates the necessary framework to ensure the flow of information to FinCEN.

The Memorandum of Understanding ensures the production of the following categories of information to FinCEN—(1) information on the methods and structure of the examination function with each agency; (2) aggregate information on a quarterly basis concerning examination findings; and (3) the identification and production of supporting factual material on specific financial institutions with significant compliance deficiencies. For its part, FinCEN agrees to provide analytical support—in the form of reports on compliance issues generally and information concerning issues specific to individual institutions—to the banking agencies; coordination on all matters related to compliance and enforcement; and periodic reports on information provided.

Since last fall, FinCEN has executed a similar agreement with the Internal Revenue Service, and is currently negotiating similar agreements with the Securities and Exchange Commission and the Commodity Futures Trading Commission. Significantly, as of June 8, 2005, FinCEN has executed information sharing agreements with over 30 States and territories. These agreements, modeled after the agreement with the Federal banking agencies, will for the first time create a close relationship between FinCEN and those States examining banks or other financial institutions for compliance with the Bank Secrecy Act. This will substantially enhance FinCEN's ability to maintain consistency in the application of the Bank Secrecy Act, leverage examination resources, and ultimately ensure greater compliance.

While none of the information sharing agreements that FinCEN has executed contain "penalty clauses," FinCEN and the Department of the Treasury have ample ability to ensure that all signatories comply with the letter and spirit of the agreement. First, and most importantly, we have reached an unprecedented level of cooperation with the banking agencies. All involved realize the importance of working together to ensure better compliance across all regulated entities. To have sought a penalty provision within the agreement would quite simply have undermined our overarching purpose, namely, to cement a new and robust level of cooperation. Second, we do not believe that a penalty provision is necessary to ensure compliance with the agreement. Indeed, the concept of a monetary penalty for non-compliance is inconsistent with an intra-governmental information sharing arrangement. We believe that "non-compliance," to the extent it occurs, will be in the form of reasonable disagreements over the scope of the agreement rather than a refusal to honor clear terms. In the event of non-performance, however, in the first instance, FinCEN has considerable power to encourage compliance through our comparison of one agency against the others. If that proves ineffective, we will elevate the issue to the Department of the Treasury. The Secretary of the Treasury is responsible for the administration of the Bank Secrecy Act. Failure of an agency to comply with the terms of the information sharing agreement could result in action at the highest level of Treasury to ensure that any deficiencies are cured.

FinCEN is in the process of fundamentally redefining our relationship with the delegated examiners. Thanks in large part to the interest and support of the Congress; we have been able to make significant strides in this regard. Going forward, while we know that there will be issues, we expect to be in a position to resolve them, with Congress and others keeping a close eye on our progress. Our collective goal is to better ensure the protection of the U.S. financial system through the application of the Bank Secrecy Act. This will continue to demand that we work closely with all those involved, including the industry and law enforcement, to ensure that our regulations are reasonable and applied consistently.

LACK OF SECURITY OF INFORMATION AT TREASURY

Question. Among the many problems your agency has with its information systems, one of the most troubling is the opportunity for agency employees, contractors, and law enforcement personnel to have unauthorized access to secret information.

In addition to maintaining its own sensitive financial and tax information, IRS also maintains a significant amount of sensitive information for the Treasury Department relative to the Bank Secrecy Act. The GAO, in a report dated this month, stated that despite the progress the IRS has made in correcting information security weaknesses, more than half still remain unfixed since 2002. Moreover, because no overall agency-wide information security project exists, there are no security controls in place to prevent, limit, or detect unauthorized access to Bank Secrecy Act data or taxpayer copy data. So, any IRS employee, FinCEN employee, contractor, or State and local law enforcement employee involved in this effort, could have unauthorized access to secret information.

Mr. Secretary, since many of these security weaknesses have existed since 2002, why is it taking IRS so long to correct them?

What is your plan to establish an overall agency-wide plan as GAO recommends and to fix the remaining weaknesses?

Answer. Recognizing the criticality of the security weaknesses, the IRS began an initiative in mid-2004 to analyze and fix required security activities at each of its computing centers and campuses and to support security certification and accreditation. The IRS is accomplishing this initiative using the latest processes and guidance as specified by the National Institute of Standards and Technology (NIST), and in accordance with the requirements of the Federal Information Security Management Act (FISMA).

In responding to GAO's report, the IRS developed a detailed coordinated response to the 60 GAO findings. The response matrix includes the GAO findings, the specific actions the IRS is taking to implement corrections to the weaknesses, and the dates the IRS will complete the actions. A number of weaknesses have already been corrected and the appropriate documentation to substantiate the correction is being provided.

The IRS is aggressively pursuing corrective actions to address the vulnerabilities identified in the GAO report, including correcting numerous weaknesses and implementing internal controls. The IRS is also developing a new enterprise-wide approach to security issues and is working on a plan to bring all of its systems into compliance with Federal, Treasury, and IRS policy, in addition to correcting the issues at the Detroit Computing Center (DCC). To further enhance the security process, the IRS has strengthened the role of the Designated Approving Authority (DAA) at the DCC. A DAA is a senior level official responsible for ensuring information security and mitigation of identified weaknesses. The DAA has been specifically assigned to provide a single point of authority and accountability for secure operations while ensuring the required oversight over the Center's equipment and associated systems software.

Treasury also continues to improve the Departmental Cyber Security program as a whole. Treasury Bureaus and Offices are working collaboratively to strengthen Departmental governance processes and information security policies and procedures. The Department believes that the actions taken by the IRS are very positive steps towards improving the security posture at the IRS and in addressing the concerns outlined by GAO's report.

Question. Mr. Secretary, a significant number of high-level positions are vacant at the Treasury Department—quite a few Deputy Secretary, Under Secretary and Director positions. The Deputy Secretary has left. So have the Under Secretaries for International Affairs and Domestic Finance. Five Assistant Secretaries are vacant including the position of Assistant Secretary for Management. These are positions critical to the effective management of a $12.5 billion agency and to the appropriate oversight of some of the problems I have cited this morning.

In addition to funding your Department, this subcommittee also funds the Executive Office of the White House including the Office of Personnel.

Are you confident that you are getting all the help you need in getting these vacancies filled?

Answer. Absolutely. I have an excellent, close working relationship with the White House Office of Presidential Personnel. In fact, in recent weeks we have announced a number of important nominations, including Robert Kimmitt for Deputy Secretary, Tim Adams for Under Secretary for International Affairs, Randy Quarles for Under Secretary for Domestic Finance, Phil Morrison for Assistant Secretary for Tax Policy, and Kevin Fromer for Assistant Secretary for Legislative Affairs among others. A full list of Treasury nominees awaiting confirmation appears on the following page.

The White House has been instrumental in helping us find the right people to fill these very important positions. I think you will find that we have selected an excellent group of nominees to fill the senior posts here at Treasury.

Question. Do you agree that the significant number of vacancies has an impact on the ability of your agency to fully execute its mission and appropriately manage its people and programs?

Answer. The Treasury Department is fulfilling its various missions and meeting its goals effectively. Although we have some vacancies right now, there are strong, competent individuals continuing to do the work of the Department on an acting basis, and of course, there are thousands of Treasury employees nationwide who admirably perform their duties.

Currently, there 10 Treasury nominees pending before the United States Senate. I share your view that having a strong and effective team in place is important to making the Treasury Department run as well as it possibly can. These nominees will be a great addition to our team and I look forward to working with you to help the Senate consider these nominees carefully and then to get them confirmed as quickly as possible. I would greatly appreciate any help that you could provide to make the confirmation process for these nominees a smooth one.

Nominations Awaiting Senate Confirmation and Dates of Nomination

John Dugan.—Comptroller of the Currency (2/28/05).
Tim Adams.—Under Secretary, International Affairs (4/06/05).
Bob Holland.—U.S. Executive Director, World Bank (4/25/05).
Sandy Pack.—Assistant Secretary for Management and CFO (5/16/05).
Janice Gardner.—Assistant Secretary, Intelligence and Analysis (5/16/05).
Jan Boyer.—Alternate Director, Inter-American Development Bank (5/25/05).
Randy Quarles.—Under Secretary, Domestic Finance (5/26/05).
Phil Morrison.—Assistant Secretary, Tax Policy (5/26/05).
Kevin Fromer.—Assistant Secretary, Legislative Affairs (6/06/05).
John Reich.—Director, OTS (6/06/05).
Robert Kimmitt.—Deputy Secretary (announced, but not yet transmitted to the Senate).

BUDGET PROPOSAL TO RAISE THE CAP ON ALLOWABLE SPENDING IF TREASURY'S REQUEST FOR TAX LAW ENFORCEMENT IS FULLY FUNDED

Question. Mr. Secretary, this subcommittee is going to have some very severe funding constraints because of the President's proposals to eliminate Amtrak, cut the CDBG program, and rescind billions of dollars from HUD. The budget for your agency claims to recognize the linkage between enhanced tax law enforcement and receipts to the Treasury by including a special provision that would raise the cap on allowable spending by $443 million next year if we fully fund your request to boost tax law enforcement by 7.8 percent.

What disturbs me about this proposal is that it is "all or nothing." If we raise tax law enforcement spending by an amount that is $1 less than your request, that we get no scorekeeping relief at all.

How can this proposal possibly make budgetary sense?

If you believe that funding your 7.8 percent increase will yield an extra $443 million to the Treasury, how can you argue that if we provide a 7.7 percent funding increase, the Treasury will see no additional revenue at all?

Answer. Section 404 of H. Con. Res. 95, the Concurrent Resolution on the Budget for fiscal year 2006, reads:

"INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—If a bill or joint resolution is reported making appropriations for fiscal year 2006 that appropriates $6,447,000,000 for enhanced tax enforcement to address the 'Federal tax gap' for the Internal Revenue Service, and provides an additional appropriation of $446,000,000 for enhanced tax enforcement to address the 'Federal tax gap' for the Internal Revenue Service, then the allocation to the Senate Committee on Appropriations shall be increased by $446,000,000 in budget authority and outlays flowing from the budget authority for fiscal year 2006."

The requested $446 million increase for enforcement consists of two parts—the pay raise and inflationary costs needed to maintain existing levels for our enforcement programs ($181 million) and the amount that funds increased enforcement efforts ($265 million). The request represents a balanced approach to increasing taxpayer compliance and should be considered in its entirety. Funding the $181 million associated with the costs to maintain current levels is particularly important. Without this funding, the Service would be forced to absorb these costs through base program cuts.

Investment in IRS enforcement yields more than $4 in direct revenue for every $1 invested in its total budget. In fiscal year 2004, the Service brought in a record $43.1 billion in enforcement revenue—an increase of $5.5 billion from the year before, or 15 percent. Beyond the direct revenues generated by increasing audits, collection, and criminal investigations, IRS enforcement efforts have a deterrent effect on those who might be tempted to skirt their tax obligations.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

Question. What steps are you taking to make certain that China acts immediately to end its decade long manipulation of its currency?

Answer. The Bush Administration, led by the Treasury Department, has been working intensively over the past year and half to move China to a more flexible, market-based exchange rate as soon as possible. This has involved frequent, high-level consultations with senior Chinese officials. The administration has also mobilized our G–7 partners, other East Asian nations, the IMF and the Asian Development Bank to make clear that this is an issue of multilateral importance. Finally, we have had an intensive program of technical assistance aimed at overcoming the obstacles China sees to adopting a more flexible, market-based exchange rate regime. Treasury's technical cooperation program has been highly successful in helping China address shortcomings in its banking system, such as poorly performing loans, and understand how to develop and regulate a foreign exchange derivatives market, and improve banks' foreign exchange risk management practices.

The Chinese authorities in turn have undertaken a number of significant steps to prepare its financial infrastructure for a change to the currency regime and wider fluctuations in the value of its currency. China is now ready and should move on its exchange rate without delay in a manner and magnitude that is sufficiently reflective of underlying market conditions.

Treasury has taken a number of steps recently to expedite the process of China moving to adopt a more flexible, market-based currency. In early May, Secretary Snow appointed a Special Emissary on China, Olin Wethington. The appointment of Mr. Wethington, who will be responsible for direct and frequent contact with Chinese leaders and key decision-makers on issues related to exchange rates, seeks to continue and intensify a constructive dialogue with China on this extremely important matter during this critical juncture in U.S.-China economic relations. In addition, in the recent Foreign Exchange Report submitted to Congress, Treasury emphasized that China's rigid currency regime has become highly distortionary and that it poses risks to the health of the Chinese economy, such as sowing the seeds for excess liquidity creation, asset price inflation, large speculative capital flows and overinvestment. Failure to move to a more flexible regime risks economic disruption and dislocation in China and in the larger global trading system. The Treasury report concluded that if current trends continue without substantial alteration, China's policies will likely meet the technical requirements of the statute for designation in a future report. Finally, Treasury continues to pursue high-level discussions with the world's major trading nations on how best to address imbalances in the global economy and, in particular, to urge support for exchange rate flexibility, especially in emerging Asian economies, notably China.

Question. Under U.S. law, the Treasury Department is required law to issue a semi-annual report on other nations' currency manipulation by April 15 of each year. The Department has missed the deadline for this year. Why has the Department not issued the report? Will the report find, as many believe it should, that China is unfairly and manipulatively undervaluing its currency?

Answer. The spring Report to Congress on International Economic and Exchange Rate Policies was submitted on May 17, 2005. Because of the complexity of these reports, they are time-consuming to prepare. While we always strive to deliver our reports to Congress on time, delays may be unavoidable from time to time. This administration has consistently delivered these reports much more promptly than most of its predecessors.

The report found "that no major trading partner of the United States met the technical requirements for designation under the Omnibus Trade and Competitiveness Act of 1988 during the second half of 2004 . . . Treasury has consulted with the IMF management and staff, as required by the statute, and they concur with these conclusions."

The report also stated that "Treasury has engaged, and will continue to engage, with several economies, including some in Asia, to promote the adoption of market-based exchange policies and regimes. Most notable among these is China. Current Chinese policies are highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth. Concerns of competitiveness with China also constrain neighboring economies in their adoption of more flexible exchange policies. If current trends continue without substantial alteration, China's policies will likely meet the statute's technical requirements for designation."

Question. Last week in testimony before the Senate Finance Committee, USTR nominee Bob Portman stated that the Treasury Department is responsible for addressing any problems arising from China's undervalued currency. Mr. Secretary, would you agree that China's manipulation of its currency raises concern about China's legal obligations before the WTO?

Answer. As Treasury noted in its recent report pursuant to the Omnibus Trade and Competitiveness Act of 1988, current Chinese exchange rate policies are highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth. As Ambassador Portman indicated, Treasury remains engaged with China to encourage its adoption of more flexible exchange rate policies. We believe that our intensive engagement with the Chinese authorities is the most effective way to bring about a change in China's exchange rate policy as rapidly as possible.

Question. The Trade Act of 2002 makes both strong trade remedies and addressing the problem of WTO Panels and the WTO Appellate Body's having created obligations not agreed to by the United States in the Rules area principle negotiating objectives. A review of the documents that have been filed by the U.S. government in the current WTO Rules negotiations shows that the United States is not acting to address these critical negotiating objectives. While some preliminary papers have been presented in the Rules area, little has been done by the U.S. government to follow-up on these preliminary papers with further explanatory papers or specific proposals and/or actions necessary to redress the harm that has been suffered by the United States as a result of the WTO dispute settlement process. As part of the interagency review process, the U.S. Treasury Department reviews papers and/or proposals of the U.S. Commerce Department and other U.S. government agencies prior to their submission to the WTO in the ongoing Doha Round of international trade negotiations. Can you confirm that the U.S. Treasury Department is working, and will continue to work over the coming months, to facilitate expeditious interagency approval of U.S. proposals put forward by the U.S. Commerce Department and other U.S. trade agencies—proposals that necessarily must be submitted in the WTO Rules and other negotiations to address the core negotiating objectives that were included by Congress in the Trade Act of 2002?

Answer. The Treasury Department participates in the USTR-chaired interagency Trade Policy Staff Committee and Trade Policy Review Group, the committees charged with helping formulate U.S. trade policy positions and papers. Treasury participates based on the deadlines established by USTR. Treasury supports effective and transparent WTO rules that provide protection from unfairly traded and injurious imports and assure fair treatment by other countries for U.S. exports.

SUBCOMMITTEE RECESS

Senator MURRAY. Thank you very much. This subcommittee will stand in recess until Thursday, May 12, when we will take testimony on the President's budget request on Amtrak.

[Whereupon, at 11:11 a.m., Tuesday, April 26, the subcommittee was recessed, to reconvene subject to the call of the Chair.]